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HOUSE BILL NO. 69  
INTRODUCED BY M. MCCANN  
BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITIONS, APPLICABLE FEES, AND MINE PERFORMANCE BONDING AND APPEAL PROCEDURES, ~~AND THE SMALL MINER EXEMPTION PROVISIONS~~ OF THE METAL MINE RECLAMATION LAWS; ALLOCATING INTEREST FROM THE HARD-ROCK MINING AND RECLAMATION ACCOUNT AND THE OPENCUT MINING AND RECLAMATION ACCOUNT TO THOSE ACCOUNTS; AMENDING SECTIONS 82-4-303, ~~82-4-305~~, 82-4-311, 82-4-331, 82-4-332, 82-4-335, 82-4-338, 82-4-339, 82-4-341, 82-4-360, AND 82-4-424, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~Section 1.~~ Section 82-4-303, MCA, is amended to read:

~~"82-4-303. Definitions.~~ As used in this part, unless the context indicates otherwise, the following definitions apply:

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

~~(2) "Amendment" means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment.~~

~~(3) "Board" means the board of environmental review provided for in 2-15-3502.~~

~~(4) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.~~

~~(5) "Department" means the department of environmental quality provided for in 2-15-3501.~~

~~(6) "Disturbed land" means the area of land or surface water that has been disturbed, beginning at the date of the issuance of the permit. The term includes the area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, load-out facilities, leach dumps, and all similar excavations or coverings that result from the~~



1 ~~operation and that have not been previously reclaimed under the reclamation plan.~~

2 ~~—— (7) "Exploration" means:~~

3 ~~—— (a) all activities that are conducted on or beneath the surface of lands and that result in material~~  
4 ~~disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and~~  
5 ~~economic viability of mineralization in those lands, if any, other than mining for production and economic~~  
6 ~~exploitation; and~~

7 ~~—— (b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.~~

8 ~~—— (8) "Mineral" means any ore, rock, or substance (other than oil, gas, bentonite, clay, coal, sand,~~  
9 ~~gravel, peat, soil materials, or uranium) that is taken from below the surface or from the surface of the~~  
10 ~~earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent~~  
11 ~~use or processing or for stockpiling for future use, refinement, or smelting.~~

12 ~~—— (9) "Mining" commences when the operator first mines ores or minerals in commercial quantities~~  
13 ~~for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for~~  
14 ~~metallurgical testing in excess of aggregate of 10,000 short tons.~~

15 ~~—— (10) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard~~  
16 ~~hard-rock mineral concentration processes.~~

17 ~~—— (11) "Person" means any person, corporation, firm, association, partnership, or other legal entity~~  
18 ~~engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of~~  
19 ~~tailings or waste materials, or operation of a hard-rock mill.~~

20 ~~—— (12) "Placer deposit" means:~~

21 ~~—— (a) naturally occurring, scattered or unconsolidated valuable minerals in gravel, glacial, eolian,~~  
22 ~~colluvial, or alluvial deposits lying above bedrock; or~~

23 ~~—— (b) all forms of deposit except veins of quartz and other rock in place.~~

24 ~~—— (13) "Placer or dredge mining" means the mining of minerals from a placer deposit by a person or~~  
25 ~~persons.~~

26 ~~—— (14) "Reclamation plan" means the operator's written proposal, as required and approved by the~~  
27 ~~department, for reclamation of the land that will be disturbed. The proposal must include, to the extent~~  
28 ~~practical at the time of application for an operating permit:~~

29 ~~—— (a) a statement of the proposed subsequent use of the land after reclamation;~~

30 ~~—— (b) plans for surface gradient restoration to a surface suitable for the proposed subsequent use~~

- 1 of the land after reclamation is completed and the proposed method of accomplishment;
- 2 ~~—— (c) the manner and type of revegetation or other surface treatment of disturbed areas;~~
- 3 ~~—— (d) procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public~~
- 4 ~~safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the~~
- 5 ~~area;~~
- 6 ~~—— (e) the method of disposal of mining debris;~~
- 7 ~~—— (f) the method of diverting surface waters around the disturbed areas when necessary to prevent~~
- 8 ~~pollution of those waters or unnecessary erosion;~~
- 9 ~~—— (g) the method of reclamation of stream channels and stream banks to control erosion, siltation,~~
- 10 ~~and pollution;~~
- 11 ~~—— (h) maps and other supporting documents that may be reasonably required by the department; and~~
- 12 ~~—— (i) a time schedule for reclamation that meets the requirements of 82-4-336.~~
- 13 ~~—— (15) (a) "Small miner" means a person, firm, or corporation that engages in mining activity that~~
- 14 ~~is not exempt from this part pursuant to 82-4-310, and that:~~
- 15 ~~—— (i) engages in the business of reprocessing of tailings or waste materials, or that, except as~~
- 16 ~~provided in 82-4-310, that knowingly allows other persons to engage in mining activities on land owned~~
- 17 ~~or controlled by the person, firm, or corporation; that~~
- 18 ~~—— (ii) does not hold an operating permit under 82-4-335 except for a permit issued under 82-4-335(2)~~
- 19 ~~or a permit that meets the criteria of subsection (15)(c); and that~~
- 20 ~~—— (iii) conducts:~~
- 21 ~~—— (i) an operation one or more operations that are located at least 1 mile apart at their closest points~~
- 22 ~~and that results result in not more than 5 acres of the earth's surface being disturbed and unreclaimed at~~
- 23 ~~any operation; or~~
- 24 ~~—— (ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the~~
- 25 ~~respective mining properties are:~~
- 26 ~~—— (A) the only operations engaged in by the person, firm, or corporation; and~~
- 27 ~~—— (B) at least 1 mile apart at their closest point.~~
- 28 ~~—— (b) For the purpose of this definition only, the department shall, in computing the area covered~~
- 29 ~~by the operation:~~
- 30 ~~—— (i) exclude access or haulage roads that are required by a local, state, or federal agency having~~

1 ~~jurisdiction over that road to be constructed to certain specifications if that public agency notifies the~~  
2 ~~department in writing that it desires to have the road remain in use and will maintain it after mining ceases;~~  
3 ~~and~~

4 ~~—— (ii) exclude access roads for which the person, firm, or corporation submits a bond to the~~  
5 ~~department in the amount of the estimated total cost of reclamation along with a description of the~~  
6 ~~location of the road and the specifications to which it will be constructed.~~

7 ~~—— (c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The~~  
8 ~~permit may be amended to add new disturbance areas, but the total area permitted for disturbance may~~  
9 ~~not exceed 100 acres at any time.~~

10 ~~—— (16) "Soil materials" means earth material found in the upper soil layers that will support plant~~  
11 ~~growth.~~

12 ~~—— (17) (a) "Surface mining" means all or any part of the process involved in mining of minerals by~~  
13 ~~removing the overburden and mining directly from the mineral deposits exposed, including but not limited~~  
14 ~~to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method,~~  
15 ~~and all similar methods by which earth or minerals exposed at the surface are removed in the course of~~  
16 ~~mining.~~

17 ~~—— (b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel,~~  
18 ~~peat, soil materials, or uranium or excavation or grading conducted for onsite farming, onsite road~~  
19 ~~construction, or other onsite building construction.~~

20 ~~—— (18) "Underground mining" means all methods of mining other than surface mining.~~

21 ~~—— (19) "Unit of surface-mined area" means that area of land and surface water included within an~~  
22 ~~operating permit actually disturbed by surface mining during each 12-month period of time, beginning at~~  
23 ~~the date of the issuance of the permit. The term includes the area from which overburden or minerals have~~  
24 ~~been removed, the area covered by mining debris, and all additional areas used in surface mining or~~  
25 ~~underground mining operations that by virtue of mining use are susceptible to erosion in excess of the~~  
26 ~~surrounding undisturbed portions of land.~~

27 ~~—— (20) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of~~  
28 ~~natural cover considered suitable at time of reclamation."~~

29

30 ~~—— **Section 2.** Section 82-4-305, MCA, is amended to read:~~



1 ~~————~~ **"82-4-305. Exemption -- small miners -- written agreement.** (1) Except as provided in subsections  
2 ~~(3) through (10) (11)~~, the provisions of this part do not apply to a small miner if the small miner annually  
3 agrees in writing:

4 ~~————~~ (a) that the small miner will not pollute or contaminate any stream state waters;

5 ~~————~~ (b) that the small miner will provide protection for human and animal life through the installation  
6 of bulkheads installed over safety collars and the installation of doors on tunnel portals;

7 ~~————~~ (c) that the small miner will provide a map locating the miner's mining operations. The map must  
8 be of a size and scale determined by the department.

9 ~~————~~ (d) if the small miner's operations are placer or dredge mining miner is required to reclaim pursuant  
10 to subsection (4), that the small miner shall salvage and protect all soil materials for use in reclamation of  
11 that site and shall reclaim all land disturbed by the operations to comparable utility and stability as that  
12 of adjacent areas.

13 ~~————~~ (2) For small miner exemptions obtained after September 30, 1985, a small miner may not obtain  
14 or continue an exemption under subsection (1) unless the small miner annually certifies in writing:

15 ~~————~~ (a) if the small miner is an individual, that:

16 ~~————~~ (i) no business association or partnership of which the small miner is a member or partner has a  
17 small miner exemption; and

18 ~~————~~ (ii) no corporation of which the small miner is an officer, director, or owner of record of 25% or  
19 more of any class of voting stock has a small miner exemption; or

20 ~~————~~ (b) if the small miner is a partnership or business association, that:

21 ~~————~~ (i) none of the associates or partners holds a small miner exemption; and

22 ~~————~~ (ii) none of the associates or partners is an officer, director, or owner of 25% or more of any class  
23 of voting stock of a corporation that has a small miner exemption; or

24 ~~————~~ (c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more  
25 of any class of voting stock of the corporation:

26 ~~————~~ (i) holds a small miner exemption;

27 ~~————~~ (ii) is a member or partner in a business association or partnership that holds a small miner  
28 exemption;

29 ~~————~~ (iii) is an officer, director, or owner of record of 25% or more of any class of voting stock of  
30 another corporation that holds a small miner exemption A small miner may not join with the operator of

1 ~~an adjacent operation to share facilities or conduct joint mining operations.~~  
2 ~~—— (3) A small miner whose operations are placer or dredge mining who files for an exemption after~~  
3 ~~[the effective date of this act] shall post a performance bond equal to the state's documented cost~~  
4 ~~estimate of reclaiming the disturbed land, although the bond may not exceed \$10,000 for each operation.~~  
5 ~~If the small miner has posted with another government agency a bond that the department determines~~  
6 ~~to be adequate for reclamation with another government agency, the small miner is exempt from the~~  
7 ~~requirement of this subsection.~~  
8 ~~—— (4) (a) Except as provided in subsections (4)(b) and (4)(c), a small miner shall reclaim a new~~  
9 ~~operation or new facility to the same standard that is contained in 82-4-336:~~  
10 ~~—— (i) if the operation is not a placer or dredge mining operation; and~~  
11 ~~—— (ii) if, after [the effective date of this act], the small miner:~~  
12 ~~—— (A) files for an exemption;~~  
13 ~~—— (B) adds an operation to an existing exemption; or~~  
14 ~~—— (C) adds a facility, such as a pit, adit, tunnel, dump, mill, or tailing impoundment, to an existing~~  
15 ~~operation.~~  
16 ~~—— (b) For a new operation or new facility that is located totally on previously disturbed and~~  
17 ~~unreclaimed land, the small miner is required to reclaim the new disturbance if the department determines~~  
18 ~~that the new disturbance would actually or potentially add pollution or contamination to the air or state~~  
19 ~~waters. This subsection (4)(b) does not abrogate any reclamation requirement imposed by any other~~  
20 ~~statute.~~  
21 ~~—— (c) For a new operation or new facility that is located partially on previously disturbed and~~  
22 ~~unreclaimed land, the small miner shall reclaim the portion of the operation that is located on previously~~  
23 ~~disturbed and unreclaimed land if the department determines that the new disturbance would actually or~~  
24 ~~potentially add pollution or contamination to the air or state waters. The small miner shall reclaim those~~  
25 ~~previously undisturbed areas to the same standard that is contained in 82-4-336. This subsection (4)(c)~~  
26 ~~does not abrogate any reclamation requirement imposed by any other statute.~~  
27 ~~—— (d) A small miner who conducts a placer or dredge mining operation shall reclaim all land disturbed~~  
28 ~~by the operation or facility to the same standard that is contained in 82-4-336.~~  
29 ~~—— (4)(5) If a small miner who conducts a placer or dredge mining operation is required by subsection~~  
30 ~~(4) to reclaim an operation fails to reclaim the operation, the small miner is liable to the department for all~~

1 its reasonable costs of reclamation, including a reasonable charge for services performed by state  
2 personnel and for state materials and equipment used. If the small miner posts a surety bond, the surety  
3 is liable to the state to the extent of the bond amount and the small miner is liable for the remainder of the  
4 reasonable costs to the state of reclaiming the operation.

5 ~~——— (5)(6) If a small miner who conducts a placer or dredge mining operation is required by subsection~~  
6 ~~(4) to reclaim an operation fails to commence reclamation of the operation within 6 months after cessation~~  
7 ~~of mining or within an extended period allowed by the department for good cause shown or if the small~~  
8 ~~miner fails to diligently complete reclamation, the department shall notify the small miner by certified mail~~  
9 ~~that it intends to reclaim the operation unless the small miner commences reclamation within 30 days and~~  
10 ~~diligently completes the reclamation. The notice must be mailed to the address stated on the small miner~~  
11 ~~exclusion statement or, if the small miner has notified the department of a different address by letter or~~  
12 ~~in the annual certification form, to the most recent address given to the department. If the small miner fails~~  
13 ~~to commence reclamation within 30 days or to diligently complete reclamation, the department may revoke~~  
14 ~~the small miner exclusion statement, forfeit any bond that has been posted with the department, and enter~~  
15 ~~and reclaim the operation. If the small miner has not posted a bond with the department or if the~~  
16 ~~reasonable costs of reclamation exceed the amount of the bond, the department may also collect additional~~  
17 ~~reclamation costs, as set forth in subsection (6) (7), before or after it incurs those costs.~~

18 ~~——— (6)(7) To collect additional reclamation costs, the department shall notify the small miner by~~  
19 ~~certified mail, at the address determined under subsection (5) (6), of the additional reasonable reclamation~~  
20 ~~costs and request payment within 30 days. If the small miner does not pay the additional reclamation costs~~  
21 ~~within 30 days, the department may bring an action in district court for payment of the estimated future~~  
22 ~~costs and, if the department has performed any reclamation, of its reasonable actual costs. The court shall~~  
23 ~~order payment of costs that it determines to be reasonable and shall retain jurisdiction until reclamation~~  
24 ~~of the operation is completed. Upon completion of reclamation, the court shall order payment of any~~  
25 ~~additional costs that it considers reasonable or the refund of any portion of any payment for estimated~~  
26 ~~costs that exceeds the actual reasonable costs incurred by the department.~~

27 ~~——— (7)(8) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching~~  
28 ~~solvents or reagents shall obtain an operating permit for that part of the small miner's operation in which~~  
29 ~~the cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed~~  
30 ~~of. The acreage disturbed by the operation using cyanide ore-processing reagents or other metal leaching~~

1 solvents or reagents and covered by the operating permit is excluded from the 5-acre limit specified in  
 2 82-4-303(15)(a)(i) and (15)(a)(ii).

3 ~~\_\_\_\_\_ (8)(9) The exemption provided in this section does not apply to a person:~~

4 ~~\_\_\_\_\_ (a) whose failure to comply with the provisions of this part, the rules adopted under this part, or~~  
 5 ~~a permit or license issued under this part has resulted in the forfeiture of a bond, unless that person meets~~  
 6 ~~the conditions described under 82-4-360 who is prohibited from mining under 82-4-360;~~

7 ~~\_\_\_\_\_ (b) whose failure, or the failure of any firm or business association of which that person was a~~  
 8 ~~principal or controlling member, to comply with the provisions of this part, the rules adopted under this~~  
 9 ~~part, or a permit or license issued under this part has resulted in either the receipt of bond proceeds by the~~  
 10 ~~department or the completion of reclamation by the person's surety or by the department;~~

11 ~~\_\_\_\_\_ (b)(c) who has not paid a penalty for which the department has obtained a judgment pursuant to~~  
 12 ~~82-4-361;~~

13 ~~\_\_\_\_\_ (c)(d) who has failed to post a reclamation bond required by this section, unless the department~~  
 14 ~~has certified that the area for which the bond should have been posted has been reclaimed by that person~~  
 15 ~~or reclaimed by the department and the person has reimbursed the department for the cost of the~~  
 16 ~~reclamation; or~~

17 ~~\_\_\_\_\_ (d)(e) who has failed to comply with an abatement order issued pursuant to 82-4-362, unless the~~  
 18 ~~department has completed the abatement and the person has reimbursed the department for the cost of~~  
 19 ~~abatement.~~

20 ~~\_\_\_\_\_ (9)(10) The exemption provided in this section does not apply to an area:~~

21 ~~\_\_\_\_\_ (a) under permit pursuant to 82-4-335;~~

22 ~~\_\_\_\_\_ (b) that has been permitted pursuant to 82-4-335 and reclaimed by the permittee, the department,~~  
 23 ~~or any other state or federal agency; or~~

24 ~~\_\_\_\_\_ (c) that has been reclaimed by or has been subject to remediation of contamination or pollution~~  
 25 ~~by a public agency, under supervision of a public agency, or using public funds.~~

26 ~~\_\_\_\_\_ (10)(11) A small miner may not use mercury except in a contained facility that prevents the escape~~  
 27 ~~of any mercury into the environment."~~

28

29 **SECTION 1. SECTION 82-4-303, MCA, IS AMENDED TO READ:**

30 **"82-4-303. Definitions.** As used in this part, unless the context indicates otherwise, the following

1 definitions apply:

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

4 (2) "Amendment" means a change to an approved operating or reclamation plan. A major  
5 amendment is an amendment that may significantly affect the human environment. A minor amendment  
6 is an amendment that will not significantly affect the human environment.

7 (3) "Board" means the board of environmental review provided for in 2-15-3502.

8 (4) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent  
9 in leaching operations.

10 (5) "Department" means the department of environmental quality provided for in 2-15-3501.

11 (6) "Disturbed land" means the area of land or surface water that has been disturbed, beginning  
12 at the date of the issuance of the permit. The term includes the area from which the overburden, tailings,  
13 waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor  
14 systems, load-out facilities, leach dumps, and all similar excavations or coverings that result from the  
15 operation and that have not been previously reclaimed under the reclamation plan.

16 (7) "Exploration" means:

17 (a) all activities that are conducted on or beneath the surface of lands and that result in material  
18 disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and  
19 economic viability of mineralization in those lands, if any, other than mining for production and economic  
20 exploitation; and

21 (b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

22 (8) "Mineral" means any ore, rock, or substance (other than oil, gas, bentonite, clay, coal, sand,  
23 gravel, peat, soil materials, or uranium) that is taken from below the surface or from the surface of the  
24 earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent  
25 use or processing or for stockpiling for future use, refinement, or smelting.

26 (9) "Mining" commences when the operator first mines ores or minerals in commercial quantities  
27 for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for  
28 metallurgical testing in excess of aggregate of 10,000 short tons.

29 (10) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard  
30 hard-rock mineral concentration processes.

1 (11) "Person" means any person, corporation, firm, association, partnership, or other legal entity  
2 engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of  
3 tailings or waste materials, or operation of a hard-rock mill.

4 (12) "Placer deposit" means:

5 (a) naturally occurring, scattered or unconsolidated valuable minerals in gravel, glacial, eolian,  
6 colluvial, or alluvial deposits lying above bedrock; or

7 (b) all forms of deposit except veins of quartz and other rock in place.

8 (13) "Placer or dredge mining" means the mining of minerals from a placer deposit by a person or  
9 persons.

10 (14) "Reclamation plan" means the operator's written proposal, as required and approved by the  
11 department, for reclamation of the land that will be disturbed. The proposal must include, to the extent  
12 practical at the time of application for an operating permit:

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

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

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

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

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

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

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

25 (h) maps and other supporting documents that may be reasonably required by the department; and

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

27 (15) (a) "Small miner" means a person, firm, or corporation that engages in mining activity that  
28 is not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings  
29 or waste materials, or, except as provided in 82-4-310, that knowingly allows other persons to engage  
30 in mining activities on land owned or controlled by the person, firm, or corporation; that does not hold an

1 operating permit under 82-4-335 except for a permit issued under 82-4-335(2) or a permit that meets the  
2 criteria of subsection (15)(c); and that conducts:

3 (i) an operation that results in not more than 5 acres of the earth's surface being disturbed and  
4 unreclaimed; or

5 (ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the  
6 respective mining properties are:

7 (A) the only operations engaged in by the person, firm, or corporation; and

8 (B) at least 1 mile apart at their closest point.

9 (b) For the purpose of this definition only, the department shall, in computing the area covered  
10 by the operation:

11 (i) exclude access or haulage roads that are required by a local, state, or federal agency having  
12 jurisdiction over that road to be constructed to certain specifications if that public agency notifies the  
13 department in writing that it desires to have the road remain in use and will maintain it after mining ceases;  
14 and

15 (ii) exclude access roads for which the person, firm, or corporation submits a bond to the  
16 department in the amount of the estimated total cost of reclamation along with a description of the  
17 location of the road and the specifications to which it will be constructed.

18 (c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The  
19 permit may be amended to add new disturbance areas, but the total area permitted for disturbance may  
20 not exceed 100 acres at any time.

21 (16) "Soil materials" means earth material found in the upper soil layers that will support plant  
22 growth.

23 (17) (a) "Surface mining" means all or any part of the process involved in mining of minerals by  
24 removing the overburden and mining directly from the mineral deposits exposed, including but not limited  
25 to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method,  
26 and all similar methods by which earth or minerals exposed at the surface are removed in the course of  
27 mining.

28 (b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel,  
29 peat, soil materials, or uranium or excavation or grading conducted for onsite farming, onsite road  
30 construction, or other onsite building construction.

1 (18) "Underground mining" means all methods of mining other than surface mining.

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

8 (20) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of  
9 natural cover considered suitable at time of reclamation."  
10

11 **Section 2.** Section 82-4-311, MCA, is amended to read:

12 **"82-4-311. Hard-rock mining and reclamation account.** All fees, fines, penalties, and other  
13 uncleared money that has been or will be paid to the department under the provisions of this part must  
14 be placed in the state special revenue fund in the state treasury and credited to a special interest-bearing  
15 account that is designated as the hard-rock mining and reclamation account. All accrued interest on the  
16 account must be credited to the hard-rock mining and reclamation account. This account is available to  
17 the department by appropriation and may be expended for the research, reclamation, and revegetation of  
18 land and the rehabilitation of water affected by any mining operations. Any unencumbered and any  
19 unexpended balance of this account remaining at the end of a fiscal year does not lapse but must be  
20 carried forward for the purposes of this section until expended or until appropriated by subsequent  
21 legislative action."  
22

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

24 **"82-4-331. Exploration license required -- employees included -- limitation.** (1) A person may not  
25 engage in exploration in the state without first obtaining an exploration license from the department. A  
26 license must be issued for a period of 1 year from the date of issue and is renewable from year to year  
27 on application. An application for renewal must be filed within 30 days preceding the expiration of the  
28 current license and be accompanied by payment of a \$25 renewal fee ~~as required for a new license~~. A  
29 license may not be renewed if the applicant for renewal is in violation of any provision of this part. A  
30 license is subject to suspension and revocation as provided by this part.



1 (2) Employees of persons holding a valid license under this part are included in and covered by the  
2 license.

3 (3) A person may not be issued an exploration license if:

4 (a) that person's failure, or the failure of any firm or business association of which that person was  
5 a principal or controlling member, to comply with the provisions of this part, the rules adopted under this  
6 part, or a permit or license issued under this part has resulted in either the forfeiture receipt of a bond  
7 proceeds by the department or the completion of reclamation by the person's surety or by the department-  
8 ~~unless that person meets the conditions described in 82-4-360, UNLESS THAT PERSON MEETS THE CONDITIONS~~  
9 DESCRIBED IN 82-4-360;

10 (b) that person has not paid a penalty for which the department has obtained a judgment pursuant  
11 to 82-4-361;

12 (c) that person has failed to post a reclamation bond required by 82-4-305, ~~unless the department~~  
13 ~~has certified that the area for which the bond should have been posted has been reclaimed by that person~~  
14 ~~or reclaimed by the department and the person has reimbursed the department for the cost of the~~  
15 ~~reclamation; or~~

16 (d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless  
17 the department has completed the abatement and the person has reimbursed the department for the cost  
18 of the abatement."

19

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

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

23 (a) ~~pay~~ pays a fee of ~~\$5~~ \$100 to the department;

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

26 (c) is ~~be~~ not in default of any other reclamation obligation under this law.

27 (2) An application for an exploration license ~~shall~~ must be made in writing, notarized, and  
28 submitted to the department in duplicate upon forms prepared and furnished by it. The application ~~shall~~  
29 must include an exploration map or sketch in sufficient detail to locate the area to be explored and to  
30 determine whether significant environmental problems would be encountered. The board shall by rule

1 determine the precise nature of ~~such~~ the exploration map or sketch. The applicant ~~must~~ shall state what  
2 type of prospecting and excavation techniques will be employed in disturbing the land.

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

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

13

14 **Section 5.** Section 82-4-335, MCA, is amended to read:

15 **"82-4-335. Operating permit -- limitation -- fees.** (1) A person may not engage in mining, ore  
16 processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide  
17 ore-processing reagents or other metal leaching solvents or reagents, or disturb land in anticipation of  
18 those activities in the state without first obtaining an operating permit from the department. A separate  
19 operating permit is required for each complex.

20 (2) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching  
21 solvents or reagents shall obtain an operating permit for that part of the small miner's operation where the  
22 cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of.

23 (3) Prior to receiving an operating permit from the department, a person shall pay the basic permit  
24 fee of ~~\$25~~ \$500. The department may require a person who is applying for a permit pursuant to  
25 subsection (1) to pay an additional fee not to exceed the actual amount of contractor and employee  
26 expenses beyond the normal operating expenses of the department whenever those expenses are  
27 reasonably necessary to provide for timely and adequate review of the application, including any  
28 environmental review conducted under Title 75, chapter 1, parts 1 and 2. The board may further define  
29 these expenses by rule. Whenever the department determines that an additional fee is necessary and the  
30 additional fee will exceed \$5,000, the department shall notify the applicant that a fee must be paid and

1 submit to the applicant an itemized estimate of the proposed expenses. The department shall provide the  
2 applicant an opportunity to review the department's estimated expenses. The applicant may indicate which  
3 proposed expenses the applicant considers duplicative or excessive, if any.

4 (4) The person shall submit an application on a form provided by the department, which must  
5 contain the following information and any other pertinent data required by rule:

6 (a) the name and address of the operator and, if a corporation or other business entity, the name  
7 and address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and  
8 the like and its resident agent for service of process, if required by law;

9 (b) the minerals expected to be mined;

10 (c) a proposed reclamation plan;

11 (d) the expected starting date of operations;

12 (e) a map showing the specific area to be mined and the boundaries of the land that will be  
13 disturbed, the topographic detail, the location and names of all streams, roads, railroads, and utility lines  
14 on or immediately adjacent to the area, and the location of proposed access roads to be built;

15 (f) the names and addresses of the owners of record and any purchasers under contracts for deed  
16 of the surface of the land within the permit area and the owners of record and any purchasers under  
17 contracts for deed of all surface area within one-half mile of any part of the permit area, provided that the  
18 department is not required to verify this information;

19 (g) the names and addresses of the present owners of record and any purchasers under contracts  
20 for deed of all minerals in the land within the permit area, provided that the department is not required to  
21 verify this information;

22 (h) the source of the applicant's legal right to mine the mineral on the land affected by the permit,  
23 provided that the department is not required to verify this information;

24 (i) the types of access roads to be built and manner of reclamation of road sites on abandonment;

25 (j) a plan that will provide, within limits of normal operating procedures of the industry, for  
26 completion of the operation;

27 (k) ground water and surface water hydrologic data gathered from a sufficient number of sources  
28 and length of time to characterize the hydrologic regime;

29 (l) a plan detailing the design, operation, and monitoring of impounding structures, including but  
30 not limited to tailings impoundments and water reservoirs, sufficient to ensure that the structures are safe

1 and stable;

2 (m) a plan identifying methods to be used to monitor for the accidental discharge of objectionable  
3 materials and remedial action plans to be used to control and mitigate discharges to surface or ground  
4 water; and

5 (n) an evaluation of the expected life of any tailings impoundment or waste area and the potential  
6 for expansion of the tailings impoundment or waste site.

7 (5) Except as provided in subsection (7), the permit provided for in subsection (1) for a large-scale  
8 mineral development as defined in 90-6-302 must be conditioned to provide that activities under the permit  
9 may not commence until the impact plan is approved under 90-6-307 and until the permittee has provided  
10 a written guarantee to the department and to the hard-rock mining impact board of compliance within the  
11 time schedule with the commitment made in the approved impact plan, as provided in 90-6-307. If the  
12 permittee does not comply with that commitment within the time scheduled, the department, upon receipt  
13 of written notice from the hard-rock mining impact board, shall suspend the permit until it receives written  
14 notice from the hard-rock mining impact board that the permittee is in compliance.

15 (6) When the department determines that a permittee has become or will become a large-scale  
16 mineral developer pursuant to 82-4-339 and 90-6-302 and provides notice as required under 82-4-339,  
17 within 6 months of receiving the notice, the permittee shall provide the department with proof that the  
18 permittee has obtained a waiver of the impact plan requirement from the hard-rock mining impact board  
19 or that the permittee has filed an impact plan with the hard-rock mining impact board and the appropriate  
20 county or counties. If the permittee does not file the required proof or if the hard-rock mining impact board  
21 certifies to the department that the permittee has failed to comply with the hard-rock mining impact review  
22 and implementation requirements in Title 90, chapter 6, parts 3 and 4, the department shall suspend the  
23 permit until the permittee files the required proof or until the hard-rock mining impact board certifies that  
24 the permittee has complied with the hard-rock mining impact review and implementation requirements.

25 (7) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical  
26 testing when the aggregate samples are less than 10,000 tons.

27 (8) A person may not be issued an operating permit if:

28 (a) that person's failure, or the failure of any firm or business association of which that person was  
29 a principal or controlling member, to comply with the provisions of this part, the rules adopted under this  
30 part, or a permit or license issued under this part has resulted in either the forfeiture receipt of a bond

1 ~~proceeds by the department or the completion of reclamation by the person's surety or by the department-~~  
2 ~~unless that person meets the conditions described in 82-4-360, UNLESS THAT PERSON MEETS THE CONDITIONS~~  
3 ~~DESCRIBED IN 82-4-360;~~

4 (b) that person has not paid a penalty for which the department has obtained a judgment pursuant  
5 to 82-4-361;

6 (c) that person has failed to post a reclamation bond required by 82-4-305, ~~unless the department~~  
7 ~~has certified that the area for which the bond should have been posted has been reclaimed by that person~~  
8 ~~or reclaimed by the department and the person has reimbursed the department for the cost of the~~  
9 ~~reclamation; or~~

10 (d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless  
11 the department has completed the abatement and the person has reimbursed the department for the cost  
12 of abatement.

13 (9) A person may not be issued a permit under this part unless, at the time of submission of a  
14 bond, the person provides the current information required in subsection (4)(a) and:

15 (a) (i) certifies that the person is not currently in violation in this state of any law, rule, or  
16 regulation of this state or of the United States pertaining to air quality, water quality, or mined land  
17 reclamation; or

18 (ii) presents a certification by the administering agency that the violation is in the process of being  
19 corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

20 (b) if the person is a partnership, corporation, or other business association, provides the  
21 certification required by subsection (9)(a)(i) or (9)(a)(ii), as applicable, for any partners, officers, directors,  
22 owners of 10% or more of any class of voting stock, and business association members."

23

24 **Section 6.** Section 82-4-338, MCA, is amended to read:

25 **"82-4-338. Performance bond.** (1) ~~(a)~~ The applicant shall file with the department a bond payable  
26 to the state of Montana with surety satisfactory to the department in the sum to be determined by the  
27 department of not less than \$200 for each acre or fraction of an acre of the disturbed land, conditioned  
28 upon the faithful performance of the requirements of this part, the rules of the board, and the permit. In  
29 lieu of a bond, the applicant may file with the department a cash deposit, an assignment of a certificate  
30 of deposit, an irrevocable letter of credit, or other surety acceptable to the department. The bond may not

1 be less than:

2 ~~—— (i) the estimated cost to the state to ensure compliance with TITLE 75, CHAPTERS 2 AND 5, this part,~~  
 3 the rules, and the permit, including the potential cost of department management, operation, and  
 4 maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond  
 5 liquidation can be effected; ~~and~~

6 ~~—— (ii) for unforeseen contingencies, an additional amount that is 10% of the amount determined under~~  
 7 ~~subsection (1)(a)(i).~~

8 ~~(b)~~ A public or governmental agency may not be required to post a bond under the provisions of  
 9 this part. A blanket performance bond covering two or more operations may be accepted by the  
 10 department. A blanket bond must adequately secure the estimated total number of acres of disturbed land.

11 (2) (A) THE DEPARTMENT MAY CALCULATE ONE OR MORE RECLAMATION PLAN COMPONENTS WITHIN ITS  
 12 JURISDICTION WITH THE ASSISTANCE OF ONE OR MORE OBJECTIVE THIRD-PARTY CONTRACTORS SELECTED JOINTLY BY THE  
 13 DEPARTMENT AND THE MINE OPERATOR APPLICANT AND COMPENSATED BY THE MINE OPERATOR APPLICANT WHEN, BASED  
 14 ON RELEVANT PAST EXPERIENCE, THE DEPARTMENT DETERMINES THAT ADDITIONAL EXPERTISE IS NECESSARY TO  
 15 CALCULATE THE BOND AMOUNT FOR RECLAMATION PLAN COMPONENTS. THE DEPARTMENT MAY CONTRACT FOR  
 16 ASSISTANCE PURSUANT TO THIS SUBSECTION IN DETERMINING BOND AMOUNTS FOR THE INITIAL BOND AND FOR ANY  
 17 SUBSEQUENT BOND REVIEW AND ADJUSTMENT. THE MINE OWNER IS RESPONSIBLE FOR THE FIRST \$5,000 IN CONTRACTOR  
 18 SERVICES PROVIDED UNDER THIS SUBSECTION. THE MINE OWNER AND THE DEPARTMENT ARE EACH RESPONSIBLE FOR 50%  
 19 OF ANY AMOUNT OVER \$5,000.

20 (B) TO SELECT A THIRD-PARTY CONTRACTOR AS AUTHORIZED IN SUBSECTION (2)(A), THE DEPARTMENT SHALL  
 21 PREPARE A LIST OF NO FEWER THAN FOUR CONTRACTORS ACCEPTABLE TO THE DEPARTMENT AND SHALL PROVIDE THE  
 22 APPLICANT WITH A COPY OF THE LIST. THE APPLICANT SHALL PROVIDE THE DEPARTMENT WITH A LIST OF AT LEAST 50%  
 23 OF THE CONTRACTORS FROM THE DEPARTMENT'S LIST. THE DEPARTMENT SHALL SELECT ITS CONTRACTOR FROM THE LIST  
 24 PROVIDED BY THE APPLICANT.

25 ~~(2)(3)~~ (A) The department shall conduct an overview of the amount of each bond annually and shall  
 26 conduct a comprehensive bond review at least every 5 years. The department may conduct additional  
 27 comprehensive bond reviews if, after modification of the reclamation or operation plan, an annual  
 28 overview, or an inspection of the permit area, the department determines that an increase of the bond level  
 29 may be necessary. The department shall consult with the licensee or permittee if the review indicates that  
 30 the bond level should be adjusted. When determined by the department that the set bonding level of a

1 permit or license does not represent the present costs of compliance with this part, the rules, and the  
 2 permit, the department ~~may shall~~ modify the bonding requirements of that permit or license. The licensee  
 3 or permittee must have 60 days to discuss NEGOTIATE the preliminary bond determination with the  
 4 department, at the end of which time period the department shall issue the proposed bond determination.  
 5 The department shall ~~make written findings,~~ give the licensee or permittee a copy of the findings bond  
 6 calculations that form the basis for the proposed bond determination, and, for operating permits, publish  
 7 notice of the findings proposed bond determination in a newspaper of general circulation in the county in  
 8 which the operation is located. ~~After a 30-day public comment period on the proposed bond determination,~~  
 9 ~~the~~ THE department shall issue a final bond determination IN 30 DAYS. THE UNLESS THE LICENSEE OR PERMITTEE  
 10 REQUESTS A HEARING UNDER SUBSECTION (3)(B), THE licensee or permittee shall post bond with the department  
 11 in the amount represented by the final bond determination no later than 30 days after issuance OF THE FINAL  
 12 BOND DETERMINATION. IF THE LICENSEE OR PERMITTEE DEMONSTRATES THAT, THROUGH THE EXERCISE OF REASONABLE  
 13 DILIGENCE, THAT THE LICENSEE OR PERMITTEE WILL NOT BE ABLE TO POST THE BOND WITHIN 30 DAYS, THE DEPARTMENT  
 14 SHALL GRANT A REASONABLE 30-DAY EXTENSION OF THE DEADLINE.

15 (B) The permittee or any person with an interest that may be adversely affected may obtain a  
 16 contested case hearing under the provisions of the Montana Administrative Procedure Act on the ~~adjusted~~  
 17 ~~bond level~~ final bond determination by filing with the department, within 30 days of the ~~notice~~ issuance  
 18 of the final bond determination, a written request for hearing. THE REQUEST FOR HEARING MUST SPECIFY THE  
 19 AMOUNT OF BOND INCREASE, IF ANY, THAT THE LICENSEE OR PERMITTEE CONSIDERS APPROPRIATE AND STATE THE  
 20 REASONS THAT THE LICENSEE OR PERMITTEE CONSIDERS THE DEPARTMENT'S FINAL BOND DETERMINATION TO BE  
 21 EXCESSIVE. As a condition precedent to any right to request a hearing, the licensee or permittee shall post  
 22 bond with the department in the amount of the final bond determination. Failure to post bond with the  
 23 department in the amount of the final bond determination, as provided in this section, must result in the  
 24 immediate suspension of the permit or license without further action by the department. BOND INCREASE  
 25 THAT THE LICENSEE OR PERMITTEE HAS STATED IS APPROPRIATE IN THE REQUEST FOR HEARING OR THE AMOUNT THAT IS  
 26 ONE-HALF OF THE INCREASE CONTAINED IN THE DEPARTMENT'S FINAL BOND DETERMINATION, WHICHEVER AMOUNT IS  
 27 GREATER. IF THE BOARD DETERMINES THAT ADDITIONAL BOND IS NECESSARY, THE LICENSEE OR PERMITTEE SHALL POST  
 28 BOND IN THE AMOUNT DETERMINED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF THE BOARD'S DECISION. IF THE  
 29 LICENSEE OR PERMITTEE DEMONSTRATES THAT, THROUGH THE EXERCISE OF REASONABLE DILIGENCE, THE LICENSEE OR  
 30 PERMITTEE WILL NOT BE ABLE TO POST THE BOND WITHIN 30 DAYS, THE DEPARTMENT SHALL GRANT A REASONABLE

1 EXTENSION OF THE DEADLINE.

2 (C) IF A LICENSEE OR PERMITTEE FAILS TO POST BOND IN ACCORDANCE WITH SUBSECTION (3)(A) OR (3)(B) IN  
 3 THE REQUIRED AMOUNTS BY THE REQUIRED DEADLINES, THE LICENSE OR PERMIT IS SUSPENDED BY OPERATION OF LAW AND  
 4 THE LICENSEE OR PERMITTEE SHALL IMMEDIATELY CEASE MINING AND EXPLORATION OPERATIONS UNTIL THE REQUIRED BOND  
 5 IS POSTED WITH AND APPROVED BY THE DEPARTMENT.

6 ~~(3)(4)~~ A bond filed in accordance with the provisions of this part may not be released by the  
 7 department until the provisions of this part, the rules adopted pursuant to this part, and the permit have  
 8 been fulfilled.

9 ~~(4)(5)~~ A bond filed for an operating permit obtained under 82-4-335 may not be released or  
 10 decreased until the public has been provided an opportunity for a hearing and a hearing has been held if  
 11 requested. The department shall provide reasonable statewide and local notice of the opportunity for a  
 12 hearing, including but not limited to publishing the notice in newspapers of general daily circulation.

13 ~~(5)(6) With the exception of the unforeseen contingency portion of the bond, all~~ ALL ~~All~~ bonds  
 14 required in accordance with the provisions of this section must be based upon reasonably foreseeable  
 15 activities that the applicant may conduct in order to comply with conditions of an operating permit or  
 16 license. Bonds may be required only for anticipated activities as described in subsection (1). ~~With the~~  
 17 ~~exception of the unforeseen contingency portion of the bond, only~~ ONLY ~~Only~~ those activities that  
 18 themselves or in conjunction with other activities have a reasonable possibility of occurring may be  
 19 bonded. BOND CALCULATIONS, INCLUDING CALCULATIONS FOR THE INITIAL BOND OR FOR SUBSEQUENT BOND REVIEWS  
 20 AND ADJUSTMENTS, MAY NOT INCLUDE AMOUNTS FOR ANY OCCURRENCE OR CONTINGENCY THAT IS NOT A REASONABLY  
 21 FORSEEABLE RESULT OF ANY ACTIVITY CONDUCTED BY THE APPLICANT.

22 ~~(6)(7)~~ At the applicant's discretion, bonding in addition to that required by this section may be  
 23 posted. These unobligated bonds may, on the applicant's request, be applied to future bonds required by  
 24 this section.

25 ~~(7) If a permittee fails or refuses to fulfill any condition of the permittee's operating permit, the~~  
 26 ~~department may declare the permittee in default and the surety bond forfeited. The surety shall then pay~~  
 27 ~~to the department within 30 days after receipt of notice of default by certified mail 10% of the entire bond~~  
 28 ~~amount for use in interim reclamation activities pending payment of the entire amount by the surety. The~~  
 29 ~~department shall use the bond proceeds for reclamation of the disturbed land, which may include~~  
 30 ~~establishment of a trust to fund long-term compliance with air or water quality requirements. Any interest~~



1 ~~on bond proceeds forfeited by the surety or otherwise received by the department accrues in favor of the~~  
2 ~~department for purposes of reclamation.~~

3       (8) (A) IF THE DEPARTMENT DETERMINES THAT THERE EXISTS AT AN AREA PERMITTED OR LICENSED UNDER THIS  
4 PART AN IMMINENT DANGER TO PUBLIC HEALTH, SAFETY, OR THE ENVIRONMENT CAUSED BY A VIOLATION OF THIS PART,  
5 THE RULES ADOPTED PURSUANT TO THIS PART, OR THE PERMIT OR LICENSE, AND IF THE PERMITTEE OR LICENSEE FAILS OR  
6 REFUSES TO EXPEDITIOUSLY ABATE THE DANGER, THE DEPARTMENT MAY IMMEDIATELY SUSPEND THE PERMIT OR LICENSE,  
7 ENTER THE SITE, AND ABATE THE DANGER. THE DEPARTMENT MAY THEREAFTER INSTITUTE PROCEEDINGS TO REVOKE THE  
8 LICENSE OR PERMIT, DECLARE THE PERMITTEE OR LICENSEE IN DEFAULT, AND FORFEIT A PORTION OF THE BOND, NOT TO  
9 EXCEED \$150,000 OR 10% OF THE BOND, WHICHEVER IS LESS, TO BE USED TO ABATE THE DANGER. THE DEPARTMENT  
10 SHALL NOTIFY THE SURETY OF THE FORFEITURE AND THE FORFEITURE AMOUNT BY CERTIFIED MAIL, AND THE SURETY SHALL  
11 PAY THE FORFEITURE AMOUNT TO THE DEPARTMENT WITHIN 30 DAYS OF RECEIPT OF THE NOTICE. THE DEPARTMENT  
12 SHALL, AS A CONDITION OF ANY TERMINATION OF THE SUSPENSION AND REVOCATION PROCEEDINGS, REQUIRE THAT THE  
13 PERMITTEE OR LICENSEE REIMBURSE THE SURETY, WITH INTEREST, FOR ANY AMOUNT PAID TO AND EXPENDED BY THE  
14 DEPARTMENT PURSUANT TO THIS SUBSECTION (8) AND FOR THE ACTUAL COST OF THE SURETY'S EXPENSES IN RESPONDING  
15 TO THE DEPARTMENT'S FORFEITURE DEMAND.

16       (B) IF THE DEPARTMENT IS UNABLE TO PERMANENTLY ABATE THE IMMINENT DANGER USING THE AMOUNT  
17 FORFEITED UNDER SUBSECTION (8)(A), THE DEPARTMENT MAY FORFEIT ADDITIONAL AMOUNTS UNDER THE PROCEDURE  
18 PROVIDED IN SUBSECTION (8)(A).

19       (C) THE DEPARTMENT SHALL RETURN TO THE SURETY ANY MONEY RECEIVED FROM THE SURETY PURSUANT TO  
20 THIS SUBSECTION AND NOT USED BY THE DEPARTMENT TO ABATE THE IMMINENT DANGER. THE AMOUNT NOT RETURNED  
21 TO THE SURETY MUST BE CREDITED TO THE SURETY AND REDUCES THE PENAL AMOUNT OF THE BOND ON A  
22 DOLLAR-FOR-DOLLAR BASIS.

23       (D) ANY INTEREST ACCRUED ON BOND PROCEEDS THAT IS NOT REQUIRED TO ABATE THE IMMINENT DANGER  
24 DETERMINED IN SUBSECTION (8)(A) MUST BE RETURNED TO THE SURETY, UNLESS OTHERWISE AGREED TO IN WRITING BY  
25 THE SURETY.

26       (9) IF A BOND IS TERMINATED AS A RESULT OF THE ACTION OR INACTION OF A LICENSEE OR PERMITTEE OR IS  
27 CANCELED OR OTHERWISE TERMINATED BY THE SURETY ISSUING THE BOND AND THE LICENSEE OR PERMITTEE FAILS TO POST  
28 A NEW BOND FOR THE ENTIRE AMOUNT OF THE TERMINATED BOND WITHIN 30 DAYS FOLLOWING THE NOTICE OF  
29 TERMINATION PROVIDED TO THE DEPARTMENT, THEN THE LICENSE OR PERMIT MUST BE IMMEDIATELY SUSPENDED WITHOUT  
30 FURTHER ACTION BY THE DEPARTMENT."

1

2 **Section 7.** Section 82-4-339, MCA, is amended to read:

3 **"82-4-339. Annual report of activities by permittee -- fee -- notice of large-scale mineral developer**

4 **status.** (1) Within 30 days after completion or abandonment of operations on an area under permit or  
5 within 30 days after each anniversary date of the permit, whichever is earlier, or at ~~such a~~ later date as  
6 ~~that~~ may be provided by rules of the board and each year ~~hereafter~~ after that date until reclamation is  
7 completed and approved, the permittee shall pay the annual fee of ~~\$25~~ \$100 and shall file a report of  
8 activities completed during the preceding year on a form prescribed by the department, ~~which~~ The report  
9 ~~shall~~ must:

10 (a) identify the permittee and the permit number;

11 (b) locate the operation by subdivision, section, township, and range and with relation to the  
12 nearest town or other well-known geographic feature;

13 (c) estimate acreage to be newly disturbed by operation in the next 12-month period;

14 (d) include the number of persons on the payroll for the previous permit year and for the next  
15 permit year at intervals that the department considers sufficient to enable a determination of the  
16 permittee's status under 90-6-302(4);

17 (e) update the information required in 82-4-335(4)(a); and

18 (f) update any maps previously submitted or specifically requested by the department. ~~Such~~ The  
19 maps ~~shall~~ must show:

20 (i) the permit area;

21 (ii) the unit of disturbed land;

22 (iii) the area to be disturbed during the next 12-month period;

23 (iv) if completed, the date of completion of operations;

24 (v) if not completed, the additional area estimated to be further disturbed by the operation within  
25 the following permit year; and

26 (vi) the date of beginning, amount, and current status of reclamation performed during the  
27 previous 12 months.

28 (2) Whenever the department determines that the permittee has become or will, during the next  
29 permit year, become a large-scale mineral developer, it shall immediately serve written notice of that fact  
30 on the permittee, the hard-rock mining impact board, and the county or counties in which the operation

1 is located."

2

3 **Section 8.** Section 82-4-341, MCA, is amended to read:

4 **"82-4-341. Compliance -- reclamation by department.** (1) The department shall cause the permit  
5 area to be inspected at least annually to determine whether the permittee has complied with this part, the  
6 rules adopted under this part, or the permit.

7 (2) The permittee shall proceed with reclamation as scheduled in the approved reclamation plan  
8 or as required pursuant to subsection (8). Following written notice by the department noting deficiencies,  
9 the permittee shall commence action within 30 days to rectify these deficiencies and shall diligently  
10 proceed until the deficiencies are corrected. Deficiencies that also violate other laws that require earlier  
11 rectification must be corrected in accordance with the applicable time provisions of those laws. The  
12 department may extend performance periods referred to in ~~this section and in 82-4-336 and in this section~~  
13 for delays clearly beyond the permittee's control, but only when the permittee is, in the opinion of the  
14 department, making every reasonable effort to comply.

15 (3) Within 30 days after notification by the permittee and when, in the judgment of the  
16 department, reclamation of a unit of disturbed land area is properly completed, the department shall  
17 provide the public notice and conduct any hearing requested pursuant to 82-4-338. As soon as practicable  
18 ~~thereafter~~ after notice and hearing, the permittee must be notified in writing and the bond on the area must  
19 be released or decreased proportionately to the acreage included within the bond coverage. ~~However, the~~  
20 ~~department shall retain the unforeseen contingency portion of the bond for 10 years after it has released~~  
21 ~~the remainder of the bond. The department may forfeit all or a portion of the bond to remedy actual or~~  
22 ~~potential air or water quality violations or actual or potential reclamation failures that arise at or from the~~  
23 ~~permit area during the 10-year period.~~

24 (4) The department shall cause the bond to be forfeited if:

25 (a) reclamation of disturbed land is not pursued in accordance with the reclamation plan and the  
26 permittee has not commenced action to rectify deficiencies within 30 days after notification by the  
27 department;

28 (b) reclamation is not properly completed in conformance with the reclamation plan within 2 years  
29 after completion or abandonment of operation on any fraction of the permit area or within a longer period  
30 that may have been authorized under this part; or

1 (c) after default by the permittee, the surety either refuses or fails to perform the work to the  
2 satisfaction of the department within the time required.

3 (5) The department shall notify the permittee and the surety ~~by order as provided in 82-4-338(7)~~  
4 BY CERTIFIED MAIL. If the bond is not paid within 30 days after receipt of the notice, the attorney general,  
5 upon request of the department, shall bring an action on behalf of the state in district court.

6 (6) The department may, with the staff, equipment, and material under its control or by contract  
7 with others, take any necessary actions for required reclamation of the disturbed lands ACCORDING TO THE  
8 EXISTING RECLAMATION PLAN OR A MODIFIED RECLAMATION PLAN IF THE DEPARTMENT MAKES A WRITTEN FINDING THAT  
9 THE MODIFICATIONS ARE NECESSARY TO PREVENT A VIOLATION OF TITLE 75, CHAPTER 2 OR 5, OR TO PREVENT A  
10 SUBSTANTIAL RECLAMATION FAILURE. Except in an environmental emergency, work provided for in this section  
11 must be let on the basis of competitive bidding. The department shall keep a record of all necessary  
12 expenses incurred in carrying out the work or activity authorized under this section, including a reasonable  
13 charge for the services performed by the state's personnel and the state's equipment and materials used.  
14 The surety is liable to the state to the extent of the bond. The permittee is liable for the remainder of the  
15 cost. Upon completion of the reclamation, the department shall return TO THE SURETY any amount not  
16 expended, INCLUDING ANY UNEXPENDED INTEREST ACCRUED ON BOND PROCEEDS, UNLESS OTHERWISE AGREED TO IN  
17 WRITING BY THE SURETY.

18 (7) In addition to the other liabilities imposed by this part, failure to commence an action to remedy  
19 specific deficiencies in reclamation within 30 days after notification by the department or failure to  
20 satisfactorily complete reclamation work on any segment of the permit area within 2 years or within a  
21 longer period that the department may permit on the permittee's application or on the department's own  
22 motion, after completion or abandonment of operations on any segment of the permit area, constitutes  
23 sufficient grounds for cancellation of a permit or license and refusal to issue another permit or license to  
24 the applicant. A cancellation action may not be effected while an appeal is pending from any ruling  
25 requiring the cancellation of a permit or license.

26 (8) (a) If at the time of bond review pursuant to 82-4-338 no mineral extraction or ore processing  
27 has occurred on a mine permit area for the past 5 years, the department shall determine whether further  
28 suspension of the operation will create conditions that will cause violations of Title 75, chapter 2 or 5, or  
29 significantly impair reclamation of disturbed areas. If the department determines in writing that violations  
30 of Title 75, chapter 2 or 5, or significant impairment of reclamation will occur, the department shall notify

1 the permittee that the permittee shall, within a reasonable time specified in the notice, abate the conditions  
 2 or commence reclamation. The department may grant reasonable extensions of time for good cause  
 3 shown. If the permittee does not abate the conditions or commence reclamation within the time specified  
 4 in the notice and any extensions, the department shall order either that the condition be abated or that  
 5 reclamation be commenced.

6 (b) The permittee may request a hearing on the order by submitting a written request for hearing  
 7 within 30 days of receipt of the order. A request for hearing stays the order pending a final decision,  
 8 unless the department determines in writing that the stay will create an imminent threat of significant  
 9 environmental harm or will significantly impair reclamation."

10

11 **Section 9.** Section 82-4-360, MCA, is amended to read:

12 **"82-4-360. Activity ~~When activity prohibited if bond forfeited -- exception --~~ EXCEPTION.** ~~(1) Except~~  
 13 ~~as provided in subsection (2), a~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A person may not conduct  
 14 mining or exploration activities in this state if that person or any firm or business association of which that  
 15 person was a principal or controlling member had a bond forfeited under this part, if the department  
 16 otherwise received proceeds from a surety to perform reclamation on that person's behalf, or if the  
 17 person's surety completed reclamation on the person's behalf.

18 ~~(2) A person described in subsection (1) may apply for an operations permit or an exploration~~  
 19 ~~license or may conclude a written agreement under 82-4-305 if that person first pays to the department:~~  
 20 ~~—— (a) the full amount of the necessary expenses incurred by the department under 82-4-341(6) for~~  
 21 ~~reclamation of the area for which the bond was forfeited;~~  
 22 ~~—— (b) the full amount of any penalties assessed under this part; and~~  
 23 ~~—— (c) interest on these amounts and penalties incurred at the rate of 6% per year.~~

24 (2) A PERSON DESCRIBED IN SUBSECTION (1) MAY APPLY FOR AN OPERATING PERMIT OR AN EXPLORATION LICENSE  
 25 OR MAY CONCLUDE A WRITTEN AGREEMENT UNDER 82-4-305 IF:

26 (A) THAT PERSON PAYS TO THE DEPARTMENT:

27 (I) THE FULL AMOUNT OF THE NECESSARY EXPENSES INCURRED BY THE DEPARTMENT UNDER 82-4-341(6) FOR  
 28 RECLAMATION OF THE AREA FOR WHICH THE BOND WAS FORFEITED;

29 (II) THE FULL AMOUNT OF ANY PENALTIES ASSESSED UNDER THIS PART; AND

30 (III) INTEREST ON THE EXPENSES INCURRED AND PENALTIES ASSESSED AT THE RATE OF 6% A YEAR; AND

1           (B) THE PERSON DEMONSTRATES AND THE DEPARTMENT DETERMINES THAT THE PERSON HAS REMEDIED THE  
 2 CONDITIONS THAT LED TO THE BOND FORFEITURE OR RECEIPT OF THE BOND PROCEEDS AND THAT THOSE CONDITIONS NO  
 3 LONGER EXIST."

4

5           **Section 10.** Section 82-4-424, MCA, is amended to read:

6           **"82-4-424. Receipt and expenditure of funds.** (1) The department may receive any federal funds,  
 7 state funds, or any other funds for the reclamation of land affected by opencut mining. The department  
 8 may cause the reclamation work to be done by its employees, by employees of other governmental  
 9 agencies, by soil conservation districts, or through contracts with qualified persons.

10           (2) Any funds of any public works programs available to the department must be expended and  
 11 used to reclaim and rehabilitate any lands that have been subject to opencut mining and that have not been  
 12 reclaimed and rehabilitated in accordance with the standards of this part.

13           (3) There is an opencut mining and reclamation account within the state special revenue fund  
 14 established in 17-2-102. There must be deposited in the account all fees, fines, penalties, and other money  
 15 that have been or will be paid under the provisions of this part. All accrued interest on the account must  
 16 be credited to the opencut mining and reclamation account. The money in the account is available to the  
 17 department through appropriation and must be spent by the department for the reclamation and  
 18 revegetation of land, research pertaining to the reclamation and revegetation of land, and the rehabilitation  
 19 of water affected by opencut mining operations and for administration of this part. Any unspent or  
 20 unencumbered money in the account at the end of a fiscal year must remain in the account until spent or  
 21 appropriated by the legislature."

22

23           NEW SECTION. Section 11. Coordination instruction. If ~~Bill No. [LC287]~~ SENATE BILL NO. 449  
 24 and [this act] are both passed and approved and if both contain sections that amend 82-4-311 and  
 25 82-4-424, then [sections ~~3 and 11~~ 2 AND 10 of this act] are void.

26

27           NEW SECTION. Section 12. Saving clause. [This act] does not affect rights and duties that  
 28 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
 29 act].

30

1            NEW SECTION. **Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are  
2 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
3 applications, the part remains in effect in all valid applications that are severable from the invalid  
4 applications.

5

6            NEW SECTION. **Section 14. Effective date.** [This act] is effective on passage and approval.

7

8            NEW SECTION. SECTION 15. APPLICABILITY. SECTIONS 82-4-303(6) AND 82-4-338(8) APPLY TO LICENSES  
9 AND PERMITS ISSUED AFTER [THE EFFECTIVE DATE OF THIS ACT] AND TO PERMITS ISSUED BEFORE [THE EFFECTIVE DATE  
10 OF THIS ACT] THAT ARE IN EFFECT ON [1 YEAR AFTER THE EFFECTIVE DATE OF THIS ACT].

11

- END -

**Bill Draft Number:** LC0305**Bill Type - Number:** HB 69**Short Title:** Revise mining laws**Primary Sponsor:** Matt McCann (D) HD 92**Chapter Number:** 488**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 51

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/01/2001			
(H) Signed by Governor	05/01/2001			
(H) Transmitted to Governor	04/23/2001			
(S) Signed by President	04/21/2001			
(H) Signed by Speaker	04/19/2001			
(H) Returned from Enrolling	04/19/2001			
(C) Printed - New Version Available	04/19/2001			
(H) Sent to Enrolling	04/18/2001			
(H) 3rd Reading Passed as Amended by Senate	04/18/2001	97	2	
(H) 2nd Reading Senate Amendments Concurred	04/17/2001	100	0	
(H) Scheduled for 2nd Reading	04/17/2001			
(S) Returned to House with Amendments	04/11/2001			
(S) 3rd Reading Concurred	04/11/2001	50	0	
(S) Scheduled for 3rd Reading	04/11/2001			
(S) 2nd Reading Concurred on Voice Vote	04/10/2001	49	0	
(C) Printed - New Version Available	04/09/2001			
(S) Committee Report--Bill Concurred as Amended	04/09/2001			(S) Natural Resources
(S) Committee Executive Action--Bill Concurred as Amended	04/09/2001	9	2	(S) Natural Resources
(S) Hearing	04/03/2001			(S) Natural Resources
(H) Revised Fiscal Note Printed	04/02/2001			
(H) Revised Fiscal Note Received	03/31/2001			
(S) Referred to Committee	03/30/2001			(S) Natural Resources
(S) First Reading	03/30/2001			
(H) Transmitted to Senate	03/29/2001			
(H) 3rd Reading Passed	03/29/2001	94	5	



(H) Revised Fiscal Note Requested	03/29/2001		
(H) Scheduled for 3rd Reading	03/29/2001		
(H) 2nd Reading Passed	03/28/2001	95	4
(H) Scheduled for 2nd Reading	03/28/2001		
(C) Printed - New Version Available	03/27/2001		
(H) Committee Report--Bill Passed as Amended	03/27/2001		(H) Natural Resources
(H) Committee Executive Action--Bill Passed as Amended	03/27/2001	17	3 (H) Natural Resources
(H) Hearing	02/05/2001		(H) Natural Resources
(H) Hearing Canceled	01/17/2001		(H) Natural Resources
(H) Fiscal Note Printed	01/06/2001		
(H) First Reading	01/03/2001		
(H) Fiscal Note Received	01/03/2001		
(H) Referred to Committee	12/26/2000		(H) Natural Resources
(H) Fiscal Note Requested	12/18/2000		
(C) Introduced Bill Text Available Electronically	12/12/2000		
(H) Introduced	12/12/2000		
(C) Pre-Introduction Letter Sent	12/06/2000		
(C) Draft in Assembly/Executive Director Review	12/05/2000		
(C) Draft in Final Drafter Review	12/04/2000		
(C) Bill Draft Text Available Electronically	11/30/2000		
(C) Draft in Input/Proofing	11/30/2000		
(C) Draft to Drafter - Edit Review [JLN]	11/29/2000		
(C) Draft in Edit	11/29/2000		
(C) Draft in Legal Review	11/28/2000		
(C) Draft to Requester for Review	11/17/2000		
(C) Draft Request Received	10/10/2000		

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## Sponsor, etc.

<b>Sponsor, etc.</b>	<b>Last Name/Organization</b>	<b>First Name Mi</b>
Requester	Legislative Council	
Drafter	Mitchell	Larry
By Request Of	Legislative Finance Committee	
Primary Sponsor	McCann	Matt

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## Subjects

<b>Description</b>	<b>Revenue/Approp. Vote Majority Req.</b>	<b>Subject Code</b>
Environmental Protection	Simple	ENVP
Mining and Minerals (see also: Oil and Gas)	Simple	MINE

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## Additional Bill Information

**Fiscal Note Probable:** Yes

**Preintroduction Required:** Y

**Session Law Ch. Number:** 488

***DEADLINE***

**Category:** Revenue Bills

**Transmittal Date:** 03/29/2001

**Return (with 2nd house amendments) Date:** 04/11/2001

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## Section Effective Dates

**Section(s) Effective Date Date Qualified**

All Sections 01-MAY-01

process. A new Federal Judge must be assigned and briefed on this case. This is an important issue and the legislature would be doing the right thing in pursuing it. It is going to take some time to do the restoration but it is very important for the state. He asked for a do pass.

HEARING ON HB 69

Sponsor: REP. MATT MCCANN, HD 92, Harlem

Proponents: Jan Sensibaugh, DEQ

Mona Harrell, Hilger, self  
Steve Gilbert, Helena, self  
Daniel Harrell, Hilger, self  
Dean Stiffarm, Fort Belknap Tribes  
SEN. TOM BECK, SD 28, Deer Lodge  
Cesar Hernandez, Somers, Cabinet Resource Group  
REP. EILEEN CARNEY, HD 82, Libby  
SEN. ED BUTCHER, SD 47, Winifred, for Stephanie and  
Alan Shammel  
Janet Zimmerman, Pony, self  
Russ Ritter, Montana Resources  
Bill Ralph, Sweetgrass County, self  
Richard Parks, NPRC  
Stan Frazer, Lewis and Clark County Conservation  
District  
Karen Davidson, Basin, self  
John Wilson, Trout Unlimited  
Mike Judge,  
Lewis Harrell, Hilger, self  
E. K. Ralph, Sweetgrass County  
Dick Pattison, Montana Senior Citizens and Lincoln  
and Blackfoot Legacy  
Lee Pattison, Blackfoot Legacy Chair  
M. Susan Good, Helena, self  
Jeff Barber, MWF, CFC and MCAFS  
Pete Boyce, Anaconda-Deer Lodge County  
Andy Huff, ILRC  
Bonnie Gestring, MEIC  
Patrick Judge, MEIC  
Jeff Barber, Montana Wildlife Federation, Clark Fork  
Coalation and the Montana Chapter of the American  
Fisheries Society

Opponents: Angela Janacaro, Montana Mining Association

Mark Johnson, Helena, self  
Ken Lutz, Hamilton, self

Steve Hicks, White Sulphur Springs, self  
Leo Barry, Helena, National Fire Insurance Company of  
Hartford  
Doug Parker, ASARCO  
Ted Antonioli, Montana Mining Association, Missoula  
Chapter  
Ernest Nelson, Missoula, self  
Raymond Lazuk, Golden Sunlight Mines  
John Wright, Townsend, self  
Pete Northcutt, Big Timber, Lodestar Mining  
Gary Owen, Northwest Montana Gold Prospectors  
Deb Thompson, Spokane Bar Sapphire Mine  
Harm Toren, Columbia Falls, self and Grandchildren  
Maurice Johnson, Kalispell, self  
Delbert Hunt, Helena, self  
Alan Wright, Townsend, self  
Bruce Macetty, Columbia Falls, self  
Alan Gilda, Helena, self  
John Parks, Barretts Minerals  
John Hanson, Luzenac America  
William Kraemer, Luzenac America  
Don Tibbs, Montana Mining Association, Ravalli Chapter  
Ralph Luther, Gold Prospectors Association  
Bruce Cox, Missoula, self  
Tad Dale, Majesty Mining  
John Schaefer, Montana Tunnels  
Dirk Nelson, Montana Tunnels  
Melinda Gilda, self  
Trent Axtell, NWGPA  
Mike Collins, Helena, self  
Tim Ravndal, MFMV  
Jack Mohon, Townsend, self  
Farrell Madsen, Townsend, self  
Gary Wilmeg, NWGR  
Gary Hall, NWMGP  
Norman Boughed, NWMGP  
Steve Hicks, White Sulphur Springs, self  
Dan Nelson, Helena, self  
Tom Weitz, Helena, Beal Mountain Mine  
Bruce Parker, Beal Mountain Mine  
Kel Buchanan, Beal Mountain Mine  
Jim Young, Philipsburg, self  
Bill Wibberding, Drummond, self

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 39.1}

**REP. MATT MCCANN, HD 92, Harlem,** stated that HB 69 came about due to a discussion in finance committee regarding exposure to the State of Montana due to the lack of bonding, initially to reclaim the Zortman Landusky mine. The solution of bonding for reclamation is possible if the statutes and the reclamation plans are recognized as having fairness and common sense. He passed out two sets of amendments **EXHIBIT(nah29a05) EXHIBIT(nah29a06)**. HB 69 instructs all small miners to post a performance bond equal to the state's documented cost estimate of reclaiming the disturbed land. HB 69 recognizes that a small mine reclamation is as financially draining to the people of Montana as a poorly bonded large operation.

**Proponents' Testimony:**

**{Tape : 1; Side : A; Approx. Time Counter : 42.9}**

**Jan Sensibaugh, DEQ,** submitted written testimony **EXHIBIT(nah29a07)**.

**Mona Harrell, Hilger, self,** submitted written testimony **EXHIBIT(nah29a08)**.

**Steve Gilbert, Helena, self,** stated that every mine has had some type of failure that effects water quality, fish, wildlife and habitat. He asked for a do pass.

**Daniel Harrell, Hilger, self,** submitted written testimony **EXHIBIT(nah29a09)**.

**Dean Stiffarm, Fort Belknap Tribes,** stated that the tribes are against mining because they destroy the land. Contaminated water may have to be treated forever because of the pollution. He urged a do pass.

**Andrew Huff, ILRC,** stated, a lot has been learned from the Zortman Landusky site. The main thing that has been learned is that large, multi-national corporations can go bankrupt in the blink of an eye. This bill protects the state from financial liability in the event of mining projects that go bad. It's too late for the situation at Zortman Landusky but it teaches the state a lesson. He urged a do pass.

**SEN. TOM BECK, SD 28, Deer Lodge,** stated, he worked on this bill in the finance committee. The beginning projection was to try and do reclamation without costing general fund or taxpayer dollars. One of the things that was identified was that on certain projects the bonds were too low. He gave some examples

regarding Zortman Landusky. **{Tape : 1; Side : B; Approx. Time Counter : 0.1}** He stated that he is not out to hurt anybody he is just trying and help the general taxpayers.

**Cesar Hernandez, Somers, Cabinet Resource Group**, stated that several mines have inadequate reclamation bonding that will soon leave the taxpayers of Montana holding an empty bag. He presented a check to the committee **EXHIBIT(nah29a10)** representing what his share of the unbonded reclamation liability to Montana. He suggested \$1.00 per ton for reclamation.

**REP. EILEEN CARNDY, HD 82, Libby**, submitted written testimony **EXHIBIT(nah29a11)**.

**SEN. ED BUTCHER, SD 47, Winifred, for Stephanie and Alan Shammel**, submitted written testimony **EXHIBIT(nah29a12)**. He stated that this will not stop development of minerals, it will help the people of Montana.

**Janet Zimmerman, Pony, self**, stated that she lives adjacent to the Pony mill. The Pony operation is a mill site, not a mine, but the lesson is the same. She gave a history of the Pony mill and it's bankruptcy. She stated that Montana's Reclamation Bonding requirements must be strengthened to protect the state from liability and to protect adjacent land owners. She stated that she particularly supports adding a contingency amount to the final bond determination. Unanticipated developments frequently occur which may add substantially to the cost of reclamation. She urged the committee to support HB 69.

**Russ Ritter, Montana Resources**, stated that MRI supports the bill along with the amendments.

**Bill Ralph, Sweetgrass County, self**, submitted written testimony **EXHIBIT(nah29a13)**.

**Richard Parks, NPRC, Gardiner**, submitted written testimony **EXHIBIT(nah29a14)**.

**Stan Frazer, Lewis and Clark County Conservation District**, stated that the Lewis and Clark County Conservation District supports HB 69. He submitted a letter from the North Powell Conservation District **EXHIBIT(nah29a15)**.

**Karen Davidson, Basin, self**, stated that she is in support of HB 69 and handed out two exhibits **EXHIBIT(nah29a16)** and **EXHIBIT(nah29a17)**.

**John Wilson, Trout Unlimited**, submitted a map showing polluted waters **EXHIBIT(nah29a18)** and written testimony **EXHIBIT(nah29a19)**.

**Mike Judge**, submitted a document on Current Metal Mine Permits **EXHIBIT(nah29a20)**.

**Jeff Barber, Montana Wildlife Federation, Clark Fork Coalition and the Montana Chapter of the American Fisheries Society**, stated that he strongly supports HB 69 in its current form.

**Drew Carr, Missoula**, submitted written testimony from Holly Miller of Dillon **EXHIBIT(nah29a21)**.

**Lee Pattison, Blackfoot Legacy Chair**, stated that Blackfoot Legacy supports HB 69.

**Opponents' Testimony:**

**{Tape : 1; Side : B; Approx. Time Counter : 17}**

**Angela Janacaro, Montana Mining Association**, stated that she has worked with **REP. MCCANN** to try to reach an agreement in this bill but could not reach a consensus. She recommended a do not pass for the following reasons. On page 6, starting on line 2, there is language addressing the small miner posting bonds. A small miner is an individual disturbing five acres or less in a mining operation. This language places a small miner under the same standards as a full scale mining operation. Many times these individuals are unable to generate the capitol required to bond under such standards. This bill compares apples to oranges. It places a small miner with a backhoe and five acres to be held under the same standards as a corporate mining operation. The small miner is attempting to run a small corporation out of their own pocket book. Page 14, lines 22 and 23, requires the permittee to post a 10% contingency for any unforeseen reclamation failures. The Department and others claim this is necessary to address the problems that have arisen in mines such as Zortman - Landusky. The unfortunate circumstances surrounding Zortman make good arguments for the proponents of HB 69 but the fact remains that the DEQ signed off on the reclamation plan and agreed to the adequacy of the bond amount. Some responsibility must lie within the Department to make accurate bond calculations and reasonable reclamation plans. She submitted a chart from the DEQ **EXHIBIT(nah29a22)** and went over it. Another area of concern in the bill is on page 18, line 3 where the Department wishes to hold a 10% contingency for ten years. This is after the company has complied with the reclamation requirements and the Department has deemed the reclamation complete. This is a needless

requirement if the Department does it's job in determining an appropriate plan. On page 15, line 10, it offers a 30 day public comment period on the final bond determination. While the public is involved in many areas such as the EIS, the public does not have the requirements that are necessary in setting a bond amount. The condition precedent which is on page 15, line 16, also causes concern. It requires a permittee to post a disputed bond before obtaining a hearing with the department. She recommended that the committee send the bill into a study committee where all parties are represented and the result is a pro-business piece of legislation.

**Mark Johnson, Helena, self**, submitted written testimony EXHIBIT(nah29a23) and pictures of his reclamation EXHIBIT(nah29a24).

**Ken Lutz, Hamilton, self**, stated that he is a small miner who mines for sapphires in the Philipsburg area. He stated that he caters to the tourism industry. This bill will adversely affect the small miners. That will also affect the people who depend on the small miners for gemstones. He recommended a do not pass.

**Steve Hicks, White Sulphur Springs, self**, stated he is a part-time consulting geologist who deals exclusively with small miners. He stated that government regulations and needless laws hamper the small mining industry. He stated that there are responsible miners and doesn't appreciate being labeled a "rape and run" miner.

**Leo Barry, Helena, National Fire Insurance Company of Hartford**, stated that everybody wants to be sure that there is a process in place where the state is holding adequate security such that the monies will be available for reclamation. We also need to make sure that the provisions function properly and work in the real world. He went over some concerns he has with the bill. He stated that he will work with **REP. MCCANN** and the DEQ to come up with some sort of solution.

**Doug Parker, ASARCO**, stated that he has concerns about the unforeseen 10% contingency. That makes it difficult to get surety bonds and misses the point that bonds need to be set on actual problems or potential problems that may occur. The real insurance behind the mining industry is the RIT fund.

**Ted Antonioli, Montana Mining Association, Missoula Chapter**, stated that the main problem with mining in the state is that the industry is disappearing. He asked the committee to consider what the cause of this dramatic reduction of the mining industry is and what it's affect is. State regulation is already



perceived by mineral investors as being far too stringent in the state of Montana. We are the second worst jurisdiction in terms of being black balled for mining investment. We are black balled by 78% of those people who are decision makers in the mineral industry. He went over some reasons for this. Four of the top six counties of the state for wages are mining counties. Mining is a fragile industry that has taken a lot of knocks. Montana's mining industry is one of the cleanest in the world. The RIT is to indemnify the people of Montana from problems that arise in the natural resources industry.

**Ernest Nelson, Missoula, self,** stated that he believes that HB 69 is focused in the wrong direction. It strangles, with additional regulation, the small and medium sized miners. It totally absolves the DEQ of any responsibility for the failures that happen. Everyone in the industry, as taxpayers, has the right to expect the DEQ to have the expertise to be able to get the bonding correct. He asked that everyone be included in a study to address the problem and look for a solution.

**Raymond Lazuk, Golden Sunlight Mines,** stated that the biggest problem Golden Sunlight has with the bill has to do with the contingency. The mine's experience with reclamation bonding is such that there is a number of conservative measures that are built into a bond calculation. He gave examples of this. He went over Golden Sunlight's bond calculation. He stated that the 10% added onto the bond for unforeseen costs doesn't really address the real problem. The real problem has to do with identifying and characterizing the environmental risk at the beginning of the process, not at the end of it. There are tools out there to do that. He also talked about the RIT and the Orphan Share programs. These programs were developed and implemented to finance various environmental activities related to natural resources industries. The mines pay into these funds for that purpose.

**John Wright, Townsend, self,** stated that there are too many laws now that hurt the mining industry. We need mining to survive. Montana has the greatest resources and largest workforce on earth. Unfortunately we don't have the government with the initiative, will or want to make it all work. He stated that he is an ex-small miner put out of business by the DEQ. He talked about the Pegasus mine. He stated that we don't need new laws we just need enforcement of current laws.

**Pete Northcutt, Big Timber, Lodestar Mining,** stated that he is against the bill as it is currently written.

**Gary Owen, Northwest Montana Gold Prospectors**, stated that this bill eliminates the small miner exemption. It is going to send a message to small miners that they are not welcome in Montana.

**Deb Thompson, Spokane Bar Sapphire Mine**, stated that this bill will destroy the mining industry, tourism and small business in Montana.

**Harm Toren, Columbia Falls, self and Grandchildren**, showed the committee a gold pan and stated that this bill will include him as a small miner.

**Maurice Johnson, Kalispell, self**, stated that he is a hobby miner and this bill does not fit people like him.

**Delbert Hunt, Helena, self**, stated that he is a small miner and opposes the bill.

**Alan Wright, Townsend, self**, stated that he is a small miner who believes that there are enough regulations.

**Bruce Macetty, Columbia Falls, self**, stated that he is opposed to the bill as it discriminates against small miners.

**Alan Gilda, Helena, self**, submitted written testimony EXHIBIT(nah29a25).

**John Parks, Barretts Minerals**, stated, as presently written Barretts Minerals is in opposition of the bill.

**John Hanson, Luzenac America**, stated, as presently written he is in opposition of the bill.

**William Kraemer, Luzenac America**, stated, as presently written he is in opposition of the bill as it is unnecessary.

**Don Tibbs, Montana Mining Association, Ravalli Chapter**, stated that he is a small miner and recommended a do not pass on HB 69.

**Ralph Luther, Gold Prospectors Association**, stated that this bill is against small miners

**Bruce Cox, Missoula, self**, submitted written testimony EXHIBIT(nah29a26).

**Tad Dale, Majesty Mining**, stated that he is a registered professional mining engineer. Majesty Mining and Golden Sunlight Mine are the only companies in the state that holds a cyanide

operating permit. He has a \$50,000 bond on a less than four acre leach pad and a three acre open pit. He recommended that the committee kill HB 69 and come up with something better in the interim.

**John Schaefer, Montana Tunnels**, stated that he is opposed to HB 69.

**Dirk Nelson, Montana Tunnels**, stated that he is in opposed to HB 69 and invited the committee to Montana Tunnels to see an example of responsible mining at a large scale.

**Melinda Gilda, self**, stated that she is opposed to the bill.

**Trent Axtell, NWGPA**, stated that he thinks this is a very bad bill.

**Tim Ravndal, MFMV**, submitted written testimony **EXHIBIT(nah29a27)**.

**James E. Volberding, CR Kendall**, submitted written testimony **EXHIBIT(nah29a28)**.

**Rick Jordan, Golden Sunlight Mine**, submitted written testimony **EXHIBIT(nah29a29)**.

**Questions from Committee Members and Responses:**

**{Tape : 1; Side : B; Approx. Time Counter : 60}**

**REP. BROWN** asked **REP. MCCANN** how he would answer the opponents saying that the DEQ is already answering the problem with bonding and the lack of need for HB 69. **REP. MCCANN** stated that he is hearing the industry saying they are ok with the bill with the amendments he offered. The amendments deal with the contingency and the holding of interest. He stated that he doesn't know how to answer the small miners' concerns. He spoke of the Zortman - Landusky situation.

**{Tape : 2; Side : A; Approx. Time Counter : 0.1}**

**REP. CURTISS** asked **REP. MCCANN** how much money has accrued in the RIT fund. **REP. MCCANN** stated, it is approaching \$100,000,000. **REP. CURTISS** followed up asking how that money is being spent right now. **REP. MCCANN** stated that it is being spent on resource development. There is approximately \$3.5 million that goes out into water projects and about the same amount goes into reclamation. **REP. CURTISS** then asked if there is money in the Renewable Resource Development Account for the water and why is

it taken out of the RIT. She then asked for a diagram on how the money in the Coal Trust is divided. **REP. MCCANN** stated that the RIT is split into two different accounts, resource development and reclamation. The legislature has made the decision not to use the Renewable Resource Development Account for reclamation.

**REP. ERICKSON** asked **REP. MCCANN** if it is the case that the RIT portion that is to be used for reclamation has been used for years but there are still many mines that have not been reclaimed from the days that there were not bonds. **REP. MCCANN** stated yes. **REP. ERICKSON** followed up asking for information on what mines have yet to be reclaimed. **REP. MCCANN** stated that he would ask the Department for that information.

**REP. ERICKSON** asked **Ms. Sensibaugh** asked what went on, in terms of dollars, that led to this bill. Also, has that changed any since the Legislative Finance Committee first met. **Ms. Sensibaugh** stated, with the Pegasus bankruptcy, the state has taken over reclamation at those sites. The state is short, for the Zortman - Landusky sites, an additional \$8,000,000. During the bankruptcy proceedings, the state only received an additional \$1,000,000 for the reclamation. That left the state \$7,000,000 short from the reclamation which the Department thought needed to be done at that time. Subsequent to that, the Department has been doing an EIS with the tribes, BLM and EPA to determine the correct reclamation at the site. The alternative has not been chosen yet but all indications are that the state will need even more than the additional \$7,000,000. A water quality problem was identified at the Beal Mountain mine which will leave the state \$4,000,000 short. The Forest Service will be sharing in the cost of that reclamation. There have not been any shortfalls identified. Also, there are some ongoing bonding requirements for water treatment at Zortman - Landusky. There is a water treatment facility at both Zortman and Landusky that the DEQ has to continue to operate indefinitely. The state is short about \$100,000 a year for operation of those water treatment plants. The reclamation plan has not been finalized at the Kendall mine.

**REP. ERICKSON** followed up asking if she has some direct information about how many times the DEQ comes up against problems with small miners. Also, what kind of general loss, per small miner, is occurring out there. **Ms. Sensibaugh** deferred the question to **Pete Strazdas, DEQ**. **Mr. Strazdas** stated that the state has forfeited small miner bonds six times since bonding was initiated in 1989. Four of the six times the \$5,000 maximum proved inadequate. As of November 2000, the average reclamation cost is \$2,900 per acre but that is with a wide range ranging from \$607 per acre to \$35,000 per acre. **REP. ERICKSON** asked for some written data on these issues.

**REP. DALE** asked **Ms. Sensibaugh** if Zortman - Landusky complex and the Kendall mine were operating under an approved reclamation plan at the time that the state took over the reclamation. **Ms. Sensibaugh** stated, the Zortman - Landusky was operating under an approved reclamation plan. The DEQ has been negotiating with the Kendall mine for years to get an approved reclamation plan at that site. **REP. DALE** followed up asking if the state changed the reclamation plan once they took over the reclamation. **Ms. Sensibaugh** stated yes, the reclamation plan at Zortman - Landusky asked for and assumed that there would be concurrent reclamation going on at the same time expanded mining was going on. When the state took over reclamation of the site, without the mining expansion, DEQ had to redo the reclamation plan for a mine that did not do that expanded mining. **REP. DALE** followed up asking if she knows the average cost, per acre, of the cost to reclaim for private industry. **Ms. Sensibaugh** stated no but she can get that information. **REP. DALE** asked her to include that in the comparison of average costs.

**REP. CURTISS** asked **Mr. Strazdas** why the correspondence only goes back to 1989. **Mr. Strazdas** stated that bonding for small placer mines started in 1989. **REP. CURTISS** followed up asking the amount of the liability relative to the two failures to reclaim. **Mr. Strazdas** stated that he will get that information to the committee before executive action.

**REP. STORY** asked **Mr. Strazdas** how many applications the Department receives each year. **Mr. Strazdas** stated, in the year 2000 there were 18 applications. **REP. STORY** followed up asking if that is where things have been since the price of gold dropped. **Mr. Strazdas** stated it is about half. The long term average is 30 per year. **REP. STORY** followed up asking **Mr. Strazdas** if he was involved in the drafting of HB 69 and were any small miners involved. **Mr. Strazdas** stated that he was but no small miners were.

**REP. ERICKSON** asked **Ms. Sensibaugh** if the amendments will get rid of the 10% contingency and if so, what will be taking it's place. **Ms. Sensibaugh** stated, the 10% contingency, just on the total amount of the bond, will go away. In it's place will be an evaluation by reclamation component of the risk associated with successful reclamation.

**REP. DALE** asked **Ms. Sensibaugh** what other fees might small miners face as they are going through a permitting process or as they deal with DEQ. **Ms. Sensibaugh** stated they would just face the fees in the Metal Mine Reclamation Act. There would be an additional fee if they needed a water quality discharge permit.

**REP. DALE** followed up asking what that fee might be. **Ms. Sensibaugh** stated she did not know but it would depend on the amount of water discharged and the pollutants in the discharge.

**REP. STORY** asked **Mr. Strazdas** who has to have a small mine permit. **Mr. Strazdas** stated there is a bond threshold on who is regulated as a small miner and that is a person who disturbs 100 square feet of the earth's surface or moves 50 cubic yards of material from an underground mine or uses blasting agents or mechanized excavated equipment. Recreational miners typically are not regulated. If they operate as an association or a gem and mineral club they will be regulated for accumulative disturbance. **REP. STORY** followed up asking for a run down of the law for people who have to have a permit. **Mr. Strazdas** stated that the people who are regulated are those who are over the threshold stated above. These people must file a Small Miners Exclusion Statement, a one-page plan of operation and submit a location map of their operations. If they are placer operators and they are not grand fathered from bonding they must bond to a maximum of \$10,000 or whatever is required that is less than that. 46% of the Department's bonds are less than \$10,000 at this time. Hard rock operators are not required to bond or reclaim. The placer operators, since 1989, are required to reclaim.

**Closing by Sponsor:**

*{Tape : 2; Side : A; Approx. Time Counter : 22.5}*

**REP. MCCANN** stated that he supports the mining industry and is not in support of closing it down. He stated that everybody does need to participate in this bill. He commented that the contingency language puts the responsibility back on DEQ to do good work. He stated that he is not comfortable with using the RIT trust as that money exists for past reclamation failure. The fund does not have the capacity to address new reclamation irresponsibility. He stated that the bill is needed.

**EXECUTIVE ACTION ON HB 135**

*{Tape : 2; Side : A; Approx. Time Counter : 25}*

**Motion:** **REP. DALE** moved that **HB 135 DO PASS.**

**Motion:** **REP. DALE** moved that the **AMENDMENTS ON HB 135 BE ADOPTED.**

**Discussion:**

Amendments to House Bill No. 69  
1st Reading Copy

EXHIBIT 5  
DATE 2-5-01  
HB 69

Requested by Representative Matt McCann

For the House Natural Resources Committee(maybe)

Prepared by Larry Mitchell  
January 11, 2001 (6:04PM)

1. Page 8.

**Following:** line 27

**Insert:** "(12) A small miner shall pay a fee of \$10 to the department to obtain the exemption and \$10 annually thereafter to renew the exemption provided in this section."

- END -

AMENDMENTS TO HOUSE BILL NO. 69  
(Introduced Bill)

EXHIBIT 6  
DATE 2-5-01  
#B 69

1. Page 6, lines 2 and 3.  
Following: "who" on line 2  
Strike: remainder of line 2 through "act" on line 3  
Insert: "is required to reclaim pursuant to (4)(a), except (4)(a)(ii)(C), or pursuant to (4)(d)"
2. Page 14, line 22.  
Following: "(ii)"  
Strike: "for unforeseen contingencies, an additional amount that is 10% of the amount"  
Insert: "for reclamation plan components, including water treatment, for which the department determines, based on past experience, that additional activities not included in the costs calculated in subsection (1)(a)(i) may be necessary, a contingency cost that is reasonable under the circumstances but that, except for water treatment, is no more than 20% of the component cost"
3. Page <sup>3</sup>18, line 11.  
Following: "issuance"  
Insert: "of the final bond determination. If the licensee or permittee demonstrates that through exercise of reasonable diligence the licensee or permittee will not be able to post the bond within 30 days, the department shall grant a reasonable extension of the deadline."
4. Page 15, line 28.  
Following: "exception of the"  
Strike: "unforeseen"  
Following: "contingency"  
Insert: "cost"
5. Page 16, line 2.  
Following: line 1  
Strike: "unforeseen"  
Following: "contingency"  
Insert: "cost"
6. Page 16, line 7.  
Following: "permittee"  
Strike: "fails or refuses to fulfill any condition of the permittee's"  
Insert: "or licensee commits a material breach of its obligations under the license or"
7. Page 16, lines 12 through 14.  
Following: "requirements." on line 12  
Strike: remainder of line 12 through "reclamation." on line 14
8. Page 18, line 4.  
Following: "retain the"  
Strike: "unforeseen"  
Following: "contingency"  
Insert: "portions"
9. Page 18, line <sup>5</sup>18.  
Following: "remainder of the bond"  
Insert: "or until the department determines that the contingency cost portion of the bond is no longer necessary for a component, whichever occurs earlier."

-End-



EXHIBIT 7

DATE 2-5-01

HB 69

TESTIMONEY IN SUPPORT OF HOUSE BILL 69

Jan P. Sensibaugh

Department of Environmental Quality

This bill is an outgrowth of an audit by the Legislative Audit Division that was conducted to examine overall compliance of department mine bonding procedures under current statutes and reflects lessons learned by the department in dealing with the bankruptcy of Pegasus Gold Corporation, as the department carries out reclamation and water treatment at the Zortman/Landusky, Beal Mountain, and Basin Creek mine sites. The department has been subjected to intense scrutiny over the last two years, and this bill incorporates the department's responses to many suggested changes in the way we calculate and collect on bonds.

The department has learned that, not surprisingly, insurance companies are reluctant to pay large claims, and that litigation or settlement negotiations can last from months to years. In the meantime, maintenance and water treatment must continue in order to protect the environment, and bills must be paid. In cases where the DEQ inherits the responsibility for a site from a company which has gone bankrupt or abandoned it, part of the bond must be collected in cash immediately to cover the costs of interim site management and maintenance.

The department has also learned that, due to technical disagreements or contested case hearings, discussions over bond increases can stretch out into years. To protect the environment in the meantime, we need to be able to collect and hold an interim bond amount until differences have been resolved, and a final bond amount calculated.

Technical knowledge of the behavior and chemistry of water in heap leach pads, rock dumps, and impoundments has evolved considerably in the last 10 years. The department has learned that the conventional wisdom of just a few years ago concerning long-term water treatment was oversimplified. It is the department's obligation to be technically proficient and at the forefront of environmental issues, but to protect the citizens and environment of the state against unforeseeable developments, the authority to include a contingency amount in our bond calculations will protect against the taxpayer being responsible for unforeseen circumstances arising at these sites.

The department has learned through direct experience that the cost of reclamation by the state when necessary at small miner and small operating permit sites can exceed \$2900/acre. For this reason, we wish to remove the \$10,000 cap on bonds at small miner placer mining sites. We also feel that the time has come for small miners to put up bonds for new hard rock sites as well. With bonding and reclamation of all new small mines, the rationale for the limit of two sites per small miner and the restriction against overlapping companies and directorships become unnecessary. Therefore, those limitations were removed and bonded small miners are not restricted as to number of sites or interests in other companies.

Finally, our exploration and operating permit fees have not been changed in over 20 years, and do not begin to cover the costs of administration. We are requesting increases and a new \$10/year SMES fee to help cover our costs, and to provide the department with funds to carry out otherwise unfunded reclamation and research projects.

The bill would also include bonding of load out facilities located outside the operating permit boundary and clarifies that a person may not conduct mining if money has been received and reclamation has been completed on the person's behalf.

As many of you know the department has experienced and continues to experience significant funding problems associated with bonding of metal mines. Therefore the department believes that the amendments to the Metal Mine Reclamation Act reflected in this bill strengthen the bonding provisions in order to protect the taxpayers of the state of Montana from having to fund the costs of mine cleanup from their tax dollars.

Madam Chair, and Members of the Committee

My name is Mona Harrell, I'm a Wife, Homemaker, Mother, and Grandmother. Our family has a ranch in the North Moccasin Mountains, it is bordered by the Kendall Mine.

All of us could stand up hear and talk till we are blue in the face but until you, yourself's, have had to live it you truly can't understand what it is like. We teach our children that if you open it you close it, if you turn it on ,then you turn it off, if you are responsible for making a mess then clean it up. In other words we teach that it is time for each and everyone of us to take responsibility for our own actions, if even the majority of the people would do that none of us would even have to be hear today.

We had a good three plus gallon per minute of water flowing from our spring in 1991. From just one of the pump back systems the CR Kendall in 1996 pumped five and  $\frac{1}{2}$  million gallons of water back to their settling ponds, in 1997 six and  $\frac{1}{2}$  million gallons, in 1998 five and  $\frac{1}{2}$  million gallons. By the Spring of 1998 our dam's were dry and our spring was down to  $\frac{1}{2}$  gallon per minute.

Needless to say my husband, Lewis, spends plenty of his time hauling water for our stock. We only flush the toilet every third time we use it, try to explain that to your Grandchildren. When I take a bath I save the water for the few flowers I'm able to have, and no the soap doesn't kill them, they are just happy to get some water put on them. When I want hot water in my kitchen it takes a gallon of cold before the hot water starts to flow. We keep jugs by the sink and fill them with that water, as you can always find a use for it. When we brush our teeth we use a cup, as you'd be surprised at the amount of water saved in just a week by doing that. Our Son. Daughter and Granddaughter live  $\frac{1}{2}$  mile from us and are on the same spring, they are both working parents so when the week-end comes I don't wash cloths because if both of us do it would take a long time for the holding tank to recharge.

When my husband & I moved to this little piece of Heaven the one thing our children said was "well Dad now you won't have to haul water anymore" well I wish that they had been right. I know that some of you are thinking well it's been dry, that may be true, but we have an official weather station that Lewis takes care of and where we live it hasn't been. We can furnish you with a copy if you'd like and you can see for yourself's.

As far as trying to work with the mine I feel we have done above and be on. We have had them in our home and at our table, when we think that we have reached an agreement that will work for all parties only to have our fax's unanswered and our phone calls unreturned. This has all been so frustrating. The mine asked permission of the Boy Scouts to pump water on to the Boy Scouts land and said everything would be fine, well it killed everything, when we asked about this we were told by the mine that, "those things do happen". What if it had caused a death? Then what would have been their answer? "oh, well those things happen". It's just like at Zortman, Butte, Libby and how many others. For example look at Nevada they say that the total taxpayer liability may reach \$840 million, but the DEQ is being to hard on the mines, I don't think so. As I said before it is time for the mines to take responsibility for their actions. All we are asking is for clean water and the North Moccasin Mountains to be reclaimed.

We support House Bill 69, and both Amendments that are being proposed. I thank you again.

Mona Harrell  
210 K-m Rd  
Hilger, Montana  
59451

EXHIBIT 8  
DATE 2-5-01  
MR 69

Madam Chair, and Members of the Committee

EXHIBIT 9  
DATE 2-5-01  
# 69

My name is Dan Harrell. My family and I live just below CR Kendall mine in the South Fork of Last Chance Gulch drainage.

There is no way I can begin to explain the numerous problems we have had with CR Kendall and their mine over the last number of years in just a few minutes. I have chosen to address Devoto's December 22 letter to Representative Fisher.

I find it ironic that Devoto claims the mine is on the receiving end of distortions and inaccuracies, when that is what they have been doing to us. We have had to sort through the lies, or untruths, whichever you want to call it, and one of the best cases of dragging their feet that I have ever seen.

Devoto writes, "As mine area and waste rock facilities were completed, recontouring, topsoil spreading and revegetation with native grasses, shrubs and trees took place". Yes they have recontoured the land, but in such a manner that the natural contours leading into the South Fork of Last Chance Gulch at least, have been severely modified. The result of this is that alot of runoff that naturally would have come down that drainage, is now being diverted into other areas. In regards to the topsoil spreading and revegetation, I have pictures of a waste-rock dump that, as far as I know, has been considered reclaimed for at least a couple years. The mine claims they have reseeded this and also planted trees. I couldn't find one tree, and not much of anything else has been growing there either. This has to do, at least in part, with the lack of topsoil. In 1999, the mine told us they were going to put on topsoil and reseed it. To my knowledge, this hasn't been done.

In 1996, the mine installed pump-back systems to prevent any more pollution from escaping the mine site through ground-water flow. They may have succeeded in this, but in the process they are now preventing millions of gallons of water from flowing to downstream water rights holders. Devoto writes "The mine has installed wells, and pumps clean water that has been captured." First of all, the amount of water they are pumping from these wells is just a fraction of the amount that used to flow down these drainages. Secondly, Devoto conveniently leaves out the fact that they only started pumping this water last summer. This happened after years of CR Kendall denying that they were affecting our water, and only after the State gave them an ultimatum, did they start pumping water down a couple drainages. They didn't willingly do this like Devoto might have you think. What happens when the mine pumps this aquifer down? How many other people will lose their water?

CR Kendall keeps talking about biological treatment cells to treat the water. Everything I have heard about these leads me to believe they only work for two or three years. Install a water treatment system that will treat the water so it can be released downstream and one that will last more than a couple years. This system by itself could cost millions of dollars to build and maintain.

According to Devoto's letter, CR Kendall has already spent "approximately seven million" since mining ceased. With the reclamation work that still needs to be done, and the possibility of having to treat the water for one hundred years. I don't understand how Devoto can say, "bonding of a total amount of 14.2 million is overstated". If CR Kendall intends on cleaning up the site as it should be done, for as long as it needs to be done, this amount could easily be understated.

CR Kendall has missed reclamation deadlines in the past, and it seems like they are doing no more than they absolutely have to. The DEQ has been more than lenient with CR Kendall in the past, additional bonding of 14.2 million is far from overly demanding. If anyone wants to see pictures of some of their reclamation work I have some. I would have brought some water too, but we're a little short on that right now.

I support House Bill 69, and both Amendments that are being proposed.

If any one has questions or would like to know more, we would welcome the opportunity to tell our side of the situation.

Thank You  
Dan Harrell  
212 K-M RD  
Hilger, Montana  
59451


EXHIBIT 10  
DATE 2-5-01  
MB 69


**CESAR HERNANDEZ**  
PO BOX 24  
SOMERS, MT 59932

1018  
93-7082/2929

Date 2/5/01

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EXHIBIT 11  
DATE 2-5-01  
HB 69

February 5, 2000

Madam Chair and members of the committee:

I wish to send greetings to everyone on the committee and apologize for not being there in person. An unexpected snowstorm has made it impossible to travel.

For your information, as of Sept. 1999, when I filed the complaint with the DEQ asking for an investigation on the "reclaimed" areas of the old W.R. Grace Mine site outside of Libby, there were 400 people diagnosed with asbestosis. One person per year was dying of mesothelioma as a result of exposure to tremolite asbestos which was a by product of the vermiculite that was mined there. Meso should only occur at the rate of 1 person per million population per year. Currently, we have three people dying of meso as a result of exposure to our fiber.

We screened 6500 people last year in Libby. The estimate is that 10% of those people will be diagnosed with an asbestos related disease. We expect that the screenings will have to be on going for at least the next 25 years.

**HB.69 will require that load-out facilities be added to those mine areas, which must be bonded.** Libby is yet another example of lack of laws to protect the public. Our two largest clean up sites, the loading facility at Raintree Nursery and the expanding plant adjacent to the little league ball fields are the most toxic areas that have been found to date. Both are under immediate clean up and restoration by the EPA. Within the last year, the EPA has spent over 15 million dollars specifically on these two sites. Hopefully, the EPA will be able to recover these costs from W.R. Grace through litigation, otherwise, our tax dollars will have to pay.

The largest tragedy by far is the cost of human life. Because these sites lay outside of the mine boundry, they were never scheduled for inspection or reclamation. Children played on the baseball fields until 1997. At the Raintree Nursery, a thriving business operated, contaminating not only the three generations of family who operated the facility, but untold employees and consumers who regularly visited the facility.

Dr. Brad Black, our county health officer and head of the Center for Asbestos Related Disease here in Libby asked me to relay this information

to you. "Of the 200 cases that he has recently seen, 70% of those diagnosed cases lived and worked outside the mine boundary." The ages of these people are from 30 years old to one patient who is 91. None of these people should have this disease. Had stricter laws been in effect, none of this population would have been exposed. It will take years before we know the full impact of the tremolite exposure to our community because of the latency period.

The other issue that disturbs Dr. Black is the fact that the company was allowed to use their contaminated product to surface the running track at the High School and Middle School. It wasn't until 1981 that it was discovered to contain high counts of tremolite fibers. [See enclosed evidence marked Exhibit 193.165]

**HB 69 will require that DEQ retain 10% of the reclamation bond for 10 years following mine closure.** This is a very important safe guard for the state. Our situation in Libby didn't come to light until nearly 10 years after the mine closure and only because of a notice that the state was about to return the final \$67,000 in bond that they had been holding. It was only when I called the DEQ in September of 1999 to inquire about that bond release did the full impact of what had happened in Libby start to come to light.

Because of lax and inadequate laws, my family has died as a result, my generation are being diagnosed daily, my children, who I tried to protect from danger while they were growing up in Libby are high risk and will have to be screened for most of their adult lives. My grandchildren should not have to die the way that nearly every adult member of their families will die.

What has happened in Libby is a result of lax laws and a corporation that manipulated those laws in order to profit at the expense of human life. What is happening in Libby is beyond the scope of anyone's imagination in the 20<sup>th</sup> century. If you lived with this situation daily as we are forced to, you would feel as we do, that what happened here wasn't an accident, it borders on criminal, with the help of the agencies who allowed it to happen.

The full amount of the bond posted by W.R. Grace in 1972 was a little over \$500,000.00. Currently, the projected cost of dying of this disease is \$500,000.00 for the last 5 years of life for one person.

Leroy Thom  
Zetta Thom  
Lester Skramstad  
Norita Skramstad

Brent Skramstad  
Brady Skramstad  
Mike Powers  
Georginne Powers  
Mike Switzer  
Pete Ault  
Sharon Curtiss  
Ron Curtiss  
Valerie Johnston  
William Johnston  
Wilma Shearer  
Ralph Shearer  
Sean Benefield  
Amber Benefield  
David L. Benefield  
Elizabeth Benefield  
Julie Johnson  
Marty Johnson  
Donald C. Benefield  
Barbara Benefield  
LaDonna Mack  
Vernie Mack  
Carroll Hillyard  
James Hillyard  
Stacey Boardner  
Dan Boardner  
Gary Swenson  
David Swenson  
Bonnie Swenson  
Carrie Dedrick  
Robert Dedrick  
Dennis Dedrick  
Darwin Dedrick  
Sandra Dedrick  
Laura Meyer



EXHIBIT 11  
DATE 2-5-01  
HB 69

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**HB.69 will require that load-out facilities be added to those mine areas, which must be bonded.** Libby is yet another example of lack of laws to protect the public. Our two largest clean up sites, the loading facility at Raintree Nursery and the expanding plant adjacent to the little league ball fields are the most toxic areas that have been found to date. Both are under immediate clean up and restoration by the EPA. Within the last year, the EPA has spent over 15 million dollars specifically on these two sites. Hopefully, the EPA will be able to recover these costs from W.R. Grace through litigation, otherwise, our tax dollars will have to pay.

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The other issue that disturbs Dr. Black is the fact that the company was allowed to use their contaminated product to surface the running track at the High School and Middle School. It wasn't until 1981 that it was discovered to contain high counts of tremolite fibers. [See enclosed evidence marked Exhibit 193.165]

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Because of lax and inadequate laws, my family has died as a result, my generation are being diagnosed daily, my children, who I tried to protect from danger while they were growing up in Libby are high risk and will have to be screened for most of their adult lives. My grandchildren should not have to die the way that nearly every adult member of their families will die.

What has happened in Libby is a result of lax laws and a corporation that manipulated those laws in order to profit at the expense of human life. What is happening in Libby is beyond the scope of anyone's imagination in the 20<sup>th</sup> century. If you lived with this situation daily as we are forced to, you would feel as we do, that what happened here wasn't an accident, it borders on criminal, with the help of the agencies who allowed it to happen.

The full amount of the bond posted by W.R. Grace in 1972 was a little over \$500,000.00. Currently, the projected cost of dying of this disease is \$500,000.00 for the last 5 years of life for one person.

Leroy Thom  
Zetta Thom  
Lester Skramstad  
Norita Skramstad

Brent Skramstad  
Brady Skramstad  
Mike Powers  
Georginne Powers  
Mike Switzer  
Pete Ault  
Sharon Curtiss  
Ron Curtiss  
Valerie Johnston  
William Johnston  
Wilma Shearer  
Ralph Shearer  
Sean Benefield  
Amber Benefield  
David L. Benefield  
Elizabeth Benefield  
Julie Johnson  
Marty Johnson  
Donald C. Benefield  
Barbara Benefield  
LaDonna Mack  
Vernie Mack  
Carroll Hillyard  
James Hillyard  
Stacey Boardner  
Dan Boardner  
Gary Swenson  
David Swenson  
Bonnie Swenson  
Carrie Dedrick  
Robert Dedrick  
Dennis Dedrick  
Darwin Dedrick  
Sandra Dedrick  
Laura Meyer

\_\_\_\_\_ EMBL  
\_\_\_\_\_ DATE  
\_\_\_\_\_ HB

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Page

EXHIBIT 18  
DATE 2-5-09  
NO 69

January 22, 2001

Madame Chair and members of the committee;

I am writing to ask for your support of HB 69. My family ranches below the Kendall Mine near Lewistown. Mine activities at the Kendall mine have contaminated the spring on our property and significantly reduced the amount of water in the stream that runs through our ranch. The DEQ and DNRC have documented water quality violations and reduction in flows which affect my family and other families.

The biggest problem we can see to date is the lack of reclamation bonding on hard rock mines. Canyon Resource's Kendall Mine by DEQ calculations is \$12 Million short in bond money. We can sit around and cast blame or we can work to find a solution to this problem. DEQ is trying to find a solution. DEQ is asking for legislation to improve bonding requirements so that what has happened here at Kendall will not be repeated. At present bonding requirements are so low that it is financially easier for a company to forfeit its bond than reclaim its mine site. The Kendall site is a prime example. Greyhall, the previous mining operations at this site, declared bankruptcy and Kendall states they are in financial trouble.

As a legislator you know how hard it is to balance the budget and still keep the taxpayer happy. The shortfall at Kendall could cost each man, woman, and child in Montana \$12. Now add on top of that the costs at Zortman/Landusky and other mine sites. These costs are based on no further problems developing and water treatment for 100 years at Kendall and forever at Zortman/Landusky. I feel this is unacceptable. These companies should have to guarantee they clean up their mine sites.

I know the small miners will say they need to be exempt but they also cause serious problems. In the Judith Mountains near Lewistown, there is a mine known as the Golden Maple. The down-gradient landowner's cows got sick he didn't know why. The operators had abandoned the site and the cyanide was running down the creek. It cost the State a significant amount to clean up a less than 5 acre mine, not to mention the damage to a successful existing business.

Our family has already had to pay \$30,000 out of pocket to drill groundwater wells to provide our ranch with water. The longer the mine remains unreclaimed the more the damages there will be. I hope you will look at our problems and the cost to the taxpayers and support improvements in reclamation bonding at hard-rock mines.

Please feel free to contact us with your questions.

Sincerely

Stephanie and Alan Shammel  
23 Salt Creek Road  
Hilger, Montana 59451

406-538-8686

EXHIBIT 13  
DATE 02-05-01  
HB 69

**HB69: Testimony  
Bill Ralph**

Madam Chair and Members of the Committee:

Hello, my name is Bill Ralph and I am a resident of Sweet Grass County near the Custer National Forest.

I come before you today because I am deeply concerned about the inadequacy of the laws regulating small mines and their reclamation which potentially endanger my right to a clean and healthful environment. There has recently been a proposal for a small gold mining operation in the Custer National Forest near my home that could cause significant harm to my community. This proposal falls under the small miner exemption of the Metal Mining Reclamation Act, but it has by no means been a small problem for me and other residents near me.

What I have observed over the last year in Sweet Grass County has been proof positive that small miners can be very harmful to the environment. While still in the exploration phase, this mining operation has ALREADY violated the Clean Water Act by discharging waste materials into a stream on Forest Service Land and the Clean Air Act by commencing construction of the processing mill and tailings impoundment without an air quality permit. In addition, the miner has violated Forest Service regulations by conducting activities on National Forest lands without authorization.

The mill site and tailings impoundment are off Forest Service land, less than a mile from a tributary of the Yellowstone River, and ¼ mile from lower Deer Creek, yet the Forest Service claims they can do nothing to control what happens there because it is off Forest Service land. This mill site and impoundment are also in direct view of my property, and if allowed to go into operation, my neighbors and I will have to endure every day the possibility that this miner is contaminating my water beyond repair, especially since tests have indicated that the ore which will come from this mine has acid-bearing potential.

As the law now stands, miners who fall under a small mine exemption have minimal standards with which they must comply. Plus, what bonding is required of small miners now has a \$10,000 cap.

Clearly, this is a failure of the statutes that presently regulate mines and bonding practices, and it absolutely must be rectified by enacting laws that allow government agencies to require and enforce adequate bonds. Only by doing this can we make small miners realize that our land and water are precious and must be treated accordingly, and that the taxpayer should not pay the price for the mess others make.

House Bill 69 would clarify what it means to be a small miner and make it clear that ALL mining operations, no matter what the size, are subject to the law and to reclaiming the area that they affect. Removing this part of the bill will in the long run cause only more expenditures for the state and more burden on the taxpayers of Montana, who are now

often left to pay for the mess left by small miners. Given the problems already created by so many unreclaimed mine sites in our state, you absolutely cannot afford NOT to pass this legislation.

Please, I would ask you to take action on behalf of me and so many other people who have suffered because of the inadequacy of bonds covering all mines, and small mines in particular. You have the opportunity to put a stop to this burden on the citizens of Montana, who already endure the costs of too many irresponsible miners. Support House Bill 69 and you will protect the citizens of Montana by letting mining companies know that the cost of doing business in Montana is responsibility.

Thank you.

Bill Ralph  
652 Highway 10 East  
Big Timber, Montana 59011

EXHIBIT 14  
DATE 02-05-01  
HB 69

TESTIMONY OF RICHARD PARKS FOR NPRC IN SUPPORT OF HB-69

Madam Chair, Members of the Committee, my name is Richard Parks. I own and operate a sporting goods store and fishing outfitting business in Gardiner, Montana. Obviously the maintenance of the high quality waters in which my business partners, the fish, swim is of primary importance to me. Today I am representing myself and Northern Plains Resource Council. Northern Plains is a grass roots conservation and agricultural organization which represents 2500 members across the state.

We wish first to be on record commending the Department of Environmental Quality for bringing this bill forward. We support HB-69 and the amendments proposed by the Montana Environmental Information Center. In 1991 I stood before your predecessors in support of a bill to comprehensively reform bonding for all sorts of mines in Montana. It was intended to upgrade bonding for metal mines and bring bonding in general into greater conformity with the bonding required of coal mines. It also addressed the problems identified in the paper prepared for you by the Legislative Finance Committee entitled "Metal Mine Performance Bonds and State Liability." The bill failed. I can not claim that passage would have prevented all of the problems identified with the debacle at Zortman because in that case much of the physical damage had already been done. What HB-69 does is limit the degree to which Montana will suffer fiscal damage from future mine failures.

I am sure that others have or will present ample discussion of how this bill applies to the Zortman case. I am also sure that there will be a lot of testimony from "small miners" about what a burden this will be on them. Let me use a few cases to tell you why removal of the \$10,000 limit on small mine bonds, the extension of bonding to small underground operations, and the prohibition of joint operations under the small mine exemption is necessary.

Taking the last of these first, at Pony, Montana the hills are riddled with old mine workings. These operations are mostly defunct but there are varying levels of activity associated with some of the sites. Some years back an outfit came in and operated at least one of the mines, and under a different corporate shell, built a "custom mill". My recollection is that the mine was operated as an exempt small mine and the cyanide mill fell through the permitting cracks at the time. Without the prohibition on joint operations there is nothing in the law that I can see that would prevent other such combinations by individuals or corporate shells from doing a lot of damage without adequate oversight or bonding appropriately scaled to the scale of the impacts.

The extension of reclamation requirements to underground mines is also justified. For instance, even a small mine, in adverse geological circumstances, can discharge substantial acid drainage. The Mike Horse mine on the upper Blackfoot River was never a very large operation and while it is now regarded as an example of a cooperative and creative mine reclamation program it is important to note that the problems associated with it are not unique, they are, in fact, wide spread.

In the last case, I am going to talk about a mine proposal that hasn't happened yet and hopefully never will. A neighbor has proposed to "explore" for placer gold on an "island" he believes he owns in the Yellowstone River. To that end he approached the local Conservation District for a 310 Permit to drive equipment across the channel separating the bar from the main land. During this "exploration" he proposed 4



trenches 4 feet by 100 feet by about 10 feet deep. In the process an area that I estimate to be roughly 1000 square feet of mature willow would have been destroyed. I would be extremely surprised if it could be replaced for \$10,000. Since this bar is on the outside of a bend in the river, and the one with the lower bank to boot, you can see that complete reclamation would have been imperative. Fortunately the conservation district asked some smart and hard questions and the application has been withdrawn for now. It won't necessarily stay withdrawn and we need the kind of authority the department seeks in HB-69.

Thank you for your attention and I respectfully request you give HB-69 a do pass recommendation.

Richard C. Parks  
Box 196  
Gardiner, MT 59030

NATURAL RESOURCE COMMITTEE

EXHIBIT 15  
DATE 02-05-01  
HB 69

HB 69

Madam Chair and members of the committee:

Regarding HB 69; North Powell Conservation District Board would like to go on record as supporting HB 69. We have struggled in the past with what we felt was insufficient bonding as we dealt with mining applications and the district's responsibilities to administer the 310 laws.

Equipment and operating costs have escalated significantly in recent years. But more significantly the knowledge of, and acceptance for, what constitutes reclamation requires more sophisticated plans. As this should be the responsibility of the miners, the State shouldn't be left to fund reclamation when the mining company up and leaves. So again, we support HB 69.

Sincerely, David Mannix  
North Powell Conservation District Board

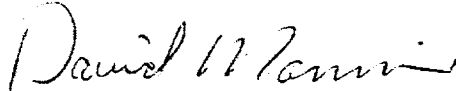


EXHIBIT 16  
DATE 02-05-01  
HB 69

MEMO

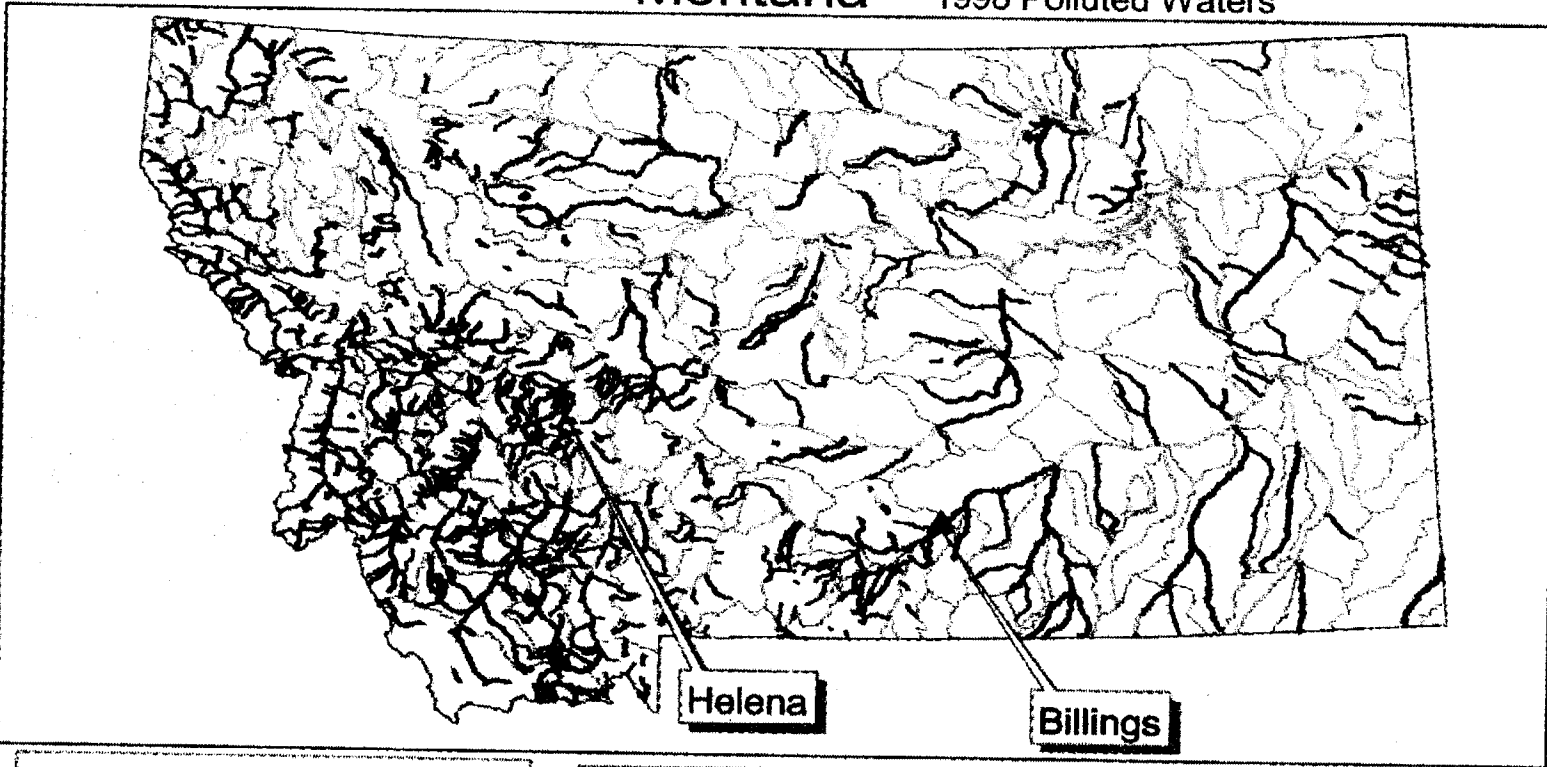
Date: 1/11/00  
To: File  
From: Joe Gurrieri  
Re: Chronology of Bullock Brothers Mine

- 8/3/71 First documentation of environmental problem from Forest service.
- 8/17/72 Bullocks are told to obtain an operating permit.
- 8/17/73 Receive application for operating permit.
- 8/17/73 OP issued for a 3 acre disturbance.
- 12/12/73 Receive bond for \$1500.
- 8/19/74 Health Department issues a turbidity violation.
- 7/16/76 Permit cancelled due to lack of renewal.
- 9/19/78 Bond cancelled.
- 10/2/78 Bullocks disturb another 8 acres under an SMES. No evidence that Bullocks mined after this date although unknown persons were active on the site as late as 1984.
- 5/6/80 SMES revoked because more than 5 acres were disturbed.
- 8/27/84 DSL inspects mine and estimates that 40 acres have been disturbed. Send letter to Bullocks asking why so many acres have been disturbed.
- 9/3/84 Letter from Bullocks stating that they "have no plans to cease mining the Crystal".
- 12/18/84 DSL attorney recommends NON.
- 6/21/85 DSL sends a violation letter to Bullocks. Bullocks don't respond.
- 8/22/85 OP suspended, NON never issued.
- 11/8/85 Bond of \$1500 revoked. No documentation in file that bond was ever spent by DSL.
- 1987-88 DNRC and FW&P have money for reclamation of the site. Due to legal tangles with OP no reclamation is pursued. DSL legal staff consider suit against Bullocks but was dropped when it was decided that the statute of limitations had run out and that the state could not recover reclamation costs.
- 9/30/92 DSL issues NON for a new disturbance.
- 12/1/92 DSL vacates NON - disturbance was for road repairs not mining.
- No activity at site since 1992.

EXHIBIT 17  
DATE 03-05-01  
HB 69



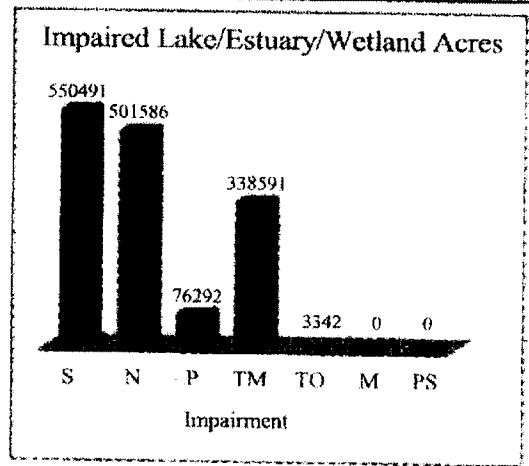
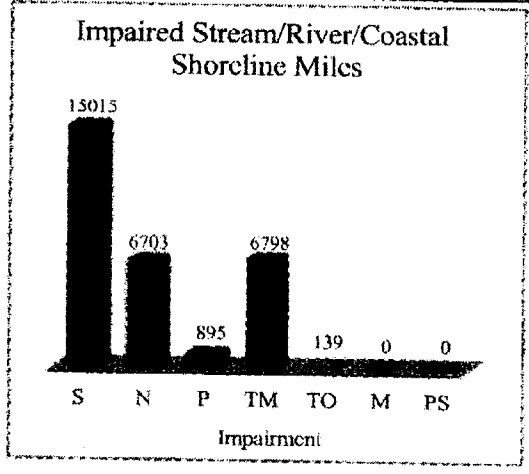
# Montana 1998 Polluted Waters



**Legend:**

- Sedimentation
- Nutrients
- Pathogens
- Multiple \*
- Other \*\*
- 8-digit USGS Cataloging Units
- Capital City
- Largest City

\* Any combination of sediments, nutrients, and pathogens  
 \*\* All other causes

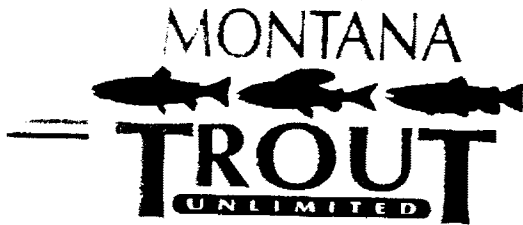


S = Sedimentation  
 N = Nutrients  
 P = Pathogens  
 TM = Toxics/Metals/Inorganics  
 TO = Toxics/Organics  
 M = Mercury  
 PS = Pesticides

EXHIBIT 18  
 DATE 02-05-01  
 HB 69

Source: 1998 State 303(d) Lists

*This colored coded map shows the rivers, streams, lakes, and wetlands impaired by various pollutants as reported by Montana in the 303 (d) list sent to the Environmental Protection Agency. The river and stream bar chart shows 29,550 miles of pollution impairment and the five types of pollutants responsible. The lake and wetland bar chart shows 1,470,302 acres of pollution impairment and the five types of pollutants responsible.*



Helena Office

405 Monroe Ave.

Helena, MT 59601

(406) 449-9933

EXHIBIT 19  
DATE 02-05-01  
HB 69

**Testimony of Montana Trout Unlimited  
HB 69  
February 5, 2001**

It is instructive that this bill is at the request of the Legislative Finance Committee. We think that speaks directly to the potential financial liability of mine reclamation to the state.

Montana citizens have born the environmental consequences of inadequate mine reclamation for over a century. This inadequate reclamation has hurt our economy and deprived us of our fishing heritage. HB 69 will go a long way toward precluding future reclamation problems that have plagued our past.

Currently the EPA estimates there are 6,798 miles of rivers and streams which are impaired by toxics, metals and/or inorganics largely due to past mining abuses ( see attached chart). This is clear evidence that there is a problem that needs to be dealt with. In most cases 'impaired' means the river or stream won't support the beneficial use of fishing!

Elsewhere in this legislative session there are numerous bills which deal with river crowding and angler conflict. The basic problem here is that our supply of good fishing rivers and streams doesn't meet the demand! How much tourism money are we forgoing because of the nearly 7,000 miles of impaired rivers and streams? Doesn't it make good economic sense to expand the supply of good fishing rivers and streams? HB 69, over time, does just that.

It is true that progress has been made in cleaning up past mining abuses. To us it makes great sense to also avert new water quality problems by assuring adequate reclamation will be attained for new mining ventures. Making sure the money is there to do proper reclamation is the obvious first step!

Current Metal Mine Permits  
November 1999

Permit Number	Company Name	Common Name	Security Type			Total Sureties	Estimated Reclamation	Potential Liability	Over Bonded	1st 5-Year Review	2nd 5-Year Review	
			Cash	CD	LOC							Surety
2	Phonix-Powder Basic Chemicals	Malden Rock Quarry				2,000	2,000	0	0	None		
2A	Rhodia, Inc.	Malden Rock Quarry				22,300	22,300	0	0			
3	Ash Grove Cement	Clark Gulch Quarry				60,550	60,550	0	0			
4	Heiman, Inc.	Ideal Basic			544,000	544,000	544,000	0	0	Late		
5	Luzenac America	Yellowstone Mine				83,500	83,500	0	0	None		
5A	Luzenac America	Yellowstone Mine				1,177,325	1,177,325	1,098,000	0	79,325	None	
6	Luzenac America	Beaverhead Mine				20,960	20,960	0	0	None		
8	Big Horn Limestone Company	Warren Quarry				222,480	222,480	0	0	None		
9	Barratts Minerals, Inc.	Treasure Mine & Barratts Mill				132,061	132,061	0	0	Late		
10	Kootenai Development Company	Grace Mine				66,700	66,700	0	0	None		
12	ARCO Coal Company					83,000	83,000	0	0	None		
13	Barratts Minerals, Inc.	Regal Mine				987,000	987,000	0	0	Late		
15	Mendon Aggregate	McQuane Quarry				239,000	239,000	0	0	None		
19	Marathon Construction Company	Montana City Silica Quarry				61,000	61,000	0	0	None		
22	Big Horn Calcium Company	Drummond Quarry				0	0	45,000	0	??		
23	T. Patrick O'Hara Inc.	Montana Travertine				15,740	15,740	0	0	None		
27	Southern Taic Company	Willow Creek Taic Mine			350,000	350,000	350,000	0	0	None		
30	Montana Resources Inc.					25,919,000	25,919,000	25,918,652	0	243	Late	
30A	Montana Resources Inc.					See Above	See Above	See Above	0	0	Late	
39	A. L. Comer and Associates				15,500	15,500	15,500	0	0	None		
41	Montana Resources Inc.					See Above	See Above	See Above	0	0	Late	
41A	Montana Resources Inc.					See Above	See Above	See Above	0	0	Late	
42	Bullock Brothers	Crystal Mine				1,500	1,500	348,500	0	NA		
44	Skalkahs Grazing, Inc.	Yellow Dog Mine			15,500	15,500	15,500	0	0	None		
45	Mendon Aggregate	Essex Quarry				120,000	120,000	0	0	None		
45A	U.S. Ansony	Sponate Hill			47,200	47,200	273,000	0	0	Late		
63	Asarco, Inc.	Black Pines Mine				70,000	70,000	70,000	0	0	None	
65	Golden Sunlight Mines	Golden Sunlight Mine				54,380,000	54,380,000	54,188,000	0	200,000	Late	
71	Hallett Minerals	Black Butte Mine				33,102	33,102	33,102	0	0	None	
73	Montana Power Inc.	Colstrip Fly Ash Ponds				115,000	115,000	115,000	0	0	Late	
75	Luzenac America	Beaverhead Mine				116,000	116,000	116,000	0	0	None	
77	Water Savoy					5,000	5,000	5,000	0	0	None	
78	Barratts Minerals, Inc.	Treasure Mine-Stoney Creek				4,543,000	4,543,000	4,543,000	0	0	Late	
79	Choteau Conservation District					0	0	0	0	0		
82	Plum Creek Timber	Kester Creek Quarry				1,500	1,500	1,500	0	0	None	
83	Big Horn Calcium Company					Released	0	0	0	NA		
87	Clay Lewis	Sauertrout Creek			5,900	5,900	5,900	0	0	None		
88	Jomac Inc.					Forfeited	0	0	0	None		
89	Black Diamond Aggregate	Meridian Quarry			73,000	73,000	52,773	0	20,227	Late		
90	Ash Grove Cement					447,000	447,000	447,000	0	0	Late	
93	Asarco, Inc.	Troy Mining Project				2,783,500	2,783,500	10,022,000	0	0	Late	
94	Stansbury Mining Company				20,000	20,000	29,000	0	0	None		
95-96	Zortman Mining - Reclamation	Zortman-Landusky Mines				Defaulted	30,113,008	37,619,008	0	0	Late	
95-96	Zortman Mining - Water Treatment	Zortman-Landusky Mines				Defaulted	28,738,617	24,042,195	0	4,696,422	Late	
98	Ash Grove Cement	Clark Gulch Quarry				726,100	726,100	726,100	0	0	Late	
100	TVX Mineral Hill Inc.	Mineral Hill				7,607,202	7,607,202	7,607,200	0	2	Late	
105	Continental Lime Inc.	Indian Creek				766,000	766,000	766,000	0	0	Late	
108	Luzenac America	Antler Chlorite Mine				200,000	200,000	600,500	0	0	?????	
113	Montana Tunnels Mining Inc.	Montana Tunnels				15,767,000	15,767,000	14,450,000	0	1,317,000	Late	
118	Silvater Mining Company	Hertzler Impoundment				7,300,000	7,800,000	7,586,000	0	214,000	Late	
122	CR Kendall Corporation	Kendall Mine				1,369,000	1,589,000	8,139,672	0	0	Late	
123	Pan American Minerals Inc.	Hog Heaven			54,000	54,000	5,400	0	48,600	None		
124	DJen Exploration	Elk Creek Mine			8,200	8,200	8,200	0	0	None		
125	DJen Exploration	Coloma Mine			4,000	4,000	4,000	0	0	None		
126	Marathon Construction Company	Montana City Limestone Quarry				22,000	22,000	22,000	0	0	None	
127	Luzenac America	Jonny Gulch Mine				254,758	254,758	254,758	0	0	None	
130	Barnard Construction					1,000	1,000	1,000	0	0	None	
131	RTCo. Bob Fowler	Barrack and Bon Accord Mines Basin Creek				Forfeited	0	0	0	??		
132	Pegasus Gold Montana Mining Co.					Defaulted	3,225,000	6,278,100	0	0	Late	
134	Cape Mountain Mining				128,000	128,000	128,000	0	0	None		
135	Beal Mountain Mining	Beal Mine			128,000	6,515,250	8,312,300	0	202,950	????		
138	New Butte Mining Inc.	Lexington			124,000	124,000	124,000	0	0	None		
139	Ash Grove Cement	Silica Quarry			20,000	20,000	20,000	0	0	None		
140	Highland Gold Properties	Fish Creek Placer			1,400	30,829	30,829	0	0	None		
141	Blue Range Mining Company	Heath Mine & Virgin Gulch			29,428	33,200	33,200	0	0	None		
142	ARCO Coal Company	Opportunity Rock Quarry				30,000	30,000	30,000	0	0	Late	
145	Seshawit, Inc.	Seshawit Placer				Forfeited	0	0	0	None		
148	Washington Gulch Mining					244,000	244,000	244,000	0	0	Late	
148	Conda Mining Inc.	Pipestone Quarry				280,500	280,500	280,500	0	0	Late	
149	Silvater Mining Company	East Boulder Project				3,000,000	3,000,000	2,650,000	0	350,000	None	
150	Noranda Minerals Corp.					30,000	30,000	30,000	0	0	None	
151	Weaver Gravel Inc.				19,000	19,000	19,000	0	0	Late		
152	M & W Milling & Refining Inc.					15,500	15,500	15,500	0	0	None	
153	Sabonne Village				5,700	5,700	5,700	0	0	None		
154	Paul Kurth Mining				27,000	27,000	35,000	0	0	Late		
155	Sockane Minerals Inc.	Sockane Hill Quarry			47,000	47,000	47,000	0	0	None		
157	Cominos American	Alder Gulch				465,000	465,000	465,000	0	0	None	
158	Sweeneywater Garnet Inc.				68,000	68,000	68,000	0	0	None		
159	Jim Gilman Escavabng	Siepen Ranch Quarry				4,000	4,000	4,000	0	0	None	
160	Diamond Hill Mining	Diamond Hill			521,400	632,000	1,153,400	0	0	None		
162	Halestry Mining				24,100	29,200	53,300	0	0	None		
	Total				510,800	1,063,129	1,088,100	130,872,278	202,827,982	220,251,280	(24,553,072)	7,129,474

BOND FORFEITURE

EXHIBIT 20  
DATE 02-05-01  
HB 69

EXHIBIT 21  
DATE 02-05-01  
HB 69

Dear Madame Chair and members of the House Natural Resources Committee,

My name is Holly Miller and I was born and raised in Dillon. I am writing to support House Bill 69. It is mandatory that our future be protected from any liability resulting from inadequate reclamation bonds. Requiring responsibility of the mining companies to extend bond coverage to the load out facilities is also prudent and necessary.

Stansbury Holdings, a small, Colorado-owned operation, recently attempted to expand a vermiculite mine near Dillon. The company had previously declared bankruptcy, re-grouped and set up shop near Dillon. Time and time again, they failed to comply with the laws. They shipped product without permits, did road expansion without posting road bonds, were in non-compliance with the Department of Environmental Quality (DEQ), and fined for various infractions by the Miners Safety and Health Administration (MSHA). There has been inadequate testing of levels of asbestos present in the ore. To date they operate under the small miners exclusionary statement (SMES), and their load out facility is next to an interstate highway and a number of homes. This is an example of how threatening the lack of requirements for a small mining operation can become.

Please take the steps required to prevent another heartbreaker like those the Libby population will be forced to deal with for years to come.

Thank you for your attention to this most serious matter.

Sincerely,

*Holly R. Miller*



Date: 3-Jan-01  
 File: g:\emblop\bondst5-YrPerfTrack.xls

IDIT  
 EW SUMMARY

AR EW ETE(1)	BOND BEFORE	BOND AFTER	INCREASE (DECREASE)	PERCENT CHANGE	NOTES
5/17/99	\$132,061	\$132,061	\$0	0%	Mill site only
7/01/99	\$36,000	\$22,800	-\$13,200	-37%	Site reclaimed by company. Pending bond release
2/01/99			\$0		(see OP #00002)
3/01/99	\$1,500	\$1,500	\$0	0%	Reclaimed spring '99; waiting on reveg success
7/16/99	\$1,300,775	\$7,607,202	\$6,306,427	485%	In closure by company. Delay in meeting deadline due to DEQ working with company on closure plan and and EIS.
4/05/99	\$60,000	\$42,805	-\$17,195	-29%	Construction materials borrow site near Emigrant; weeds are primary environmental liability
4/30/99	\$145,000	\$447,000	\$302,000	208%	
4/30/99	\$340,000	\$726,100	\$386,100	114%	
1/29/99	\$60,550	\$135,900	\$75,350	124%	
3/07/00	\$18,500	\$180,000	\$161,500	873%	Waiting for Skalkaho to post new \$180,000 bond, enf enforcement request pending. Bond would increase 973 se 873%
5/12/99	\$47,200	\$273,000	\$225,800	478%	USFS/DEQ directed reclamation plan being implemented by company in lieu of bond increase
W	\$766,000	\$0	\$0		Review delayed pending N. Ridge Amendment (received 10/04/00); bond updated 2/98. New name: Graymont Western.
3/07/99	\$120,000	\$120,000	\$0	0%	Essex Quarry (limited activity at construction borrow site historically). Site inspections confirm bond adequacy.
3/31/00	\$5,700	\$25,228	\$19,528	343%	5-yr review deadline met 8/17/99; follow-up 10/31/00. Bond will be posted by applicant in 2001.
5/17/00	\$961,690	\$4,543,000	\$3,581,310	372%	DEIS complete. Bond will be posted after final EIS. Draft bond at \$4,543,000 an increase of 372%
1/05/00	\$27,000	\$35,000	\$8,000	30%	
7/01/99	\$6,900,700	\$14,450,000	\$7,549,300	109%	Comprehensive review 2/99 in part due to Pegasus bankruptcy. Bond updated from 1995-99 whenever revisions submitted by company.
7/14/99	\$128,000	\$128,000	\$0	0%	Delay in review due to inaccessibility of site during winter. Mine plan never implemented. Bond adequate.
7/28/99	\$116,000	\$116,000	\$0	0%	Beaverhead Mine (in closure by company)
7/28/99	\$20,960	\$19,000	-\$1,960	-9%	Alder Gulch load-out. Limited disturbance area. Bond release pending.
3/05/99	\$54,000	\$54,000	\$0	0%	No disturbance on operating permit lands; bond inherited when site changed ownership.
3/21/99	\$61,600	\$239,000	\$177,400	288%	McQuarry Quarry
1/10/99	\$22,000	\$22,000	\$0	0%	Limestone Quarry site in E. Helena adjacent to Ash Grove; Ash Grove has aquired pit

3/23/00	\$2,763,500	\$10,500,000	\$7,736,500	280%	\$10,500,000 interim bond; company has submitted closure plan with water treatment provision. DEQ will update bond based on new plan.
2/01/01	\$20,000	pending	pending	pending	Draft bond calculation being reviewed internally.
1/19/00	\$252,258	\$41,000	-\$211,258	-84%	Purchase of MT Talc by Luzanac 5/94, OP #000127 now limited to Sappington Mill; \$211,258 assigned to OP #00005
EDED	\$350,000	\$350,000	\$0	0%	In reclamation by company; estimated completion summer 2001
W	\$3,274,000	\$7,800,000	\$4,526,000	138%	Increase due to Hertzler expansion 2/98; balance of mine due for comprehensive bond update 2001 (was due 5/00).
3/18/00	\$1,889,000	\$14,228,141	\$12,339,141	661%	\$9,894,975 (70%) due for expected long term water treatment. Contested case hearing filed by company. DEQ has sued for bond.
G	\$70,000	pending	pending	pending	Increase due to discovery of ARD and expected long term water treatment liability. Company providing closure plan. Bond being reviewed.
3/03/00	\$30,829	\$144,000	\$113,171	367%	Bond request sent. Waiting bond increase.
G	\$83,500	pending	pending	pending	(see OP #0005A)
G	\$1,177,925	pending	pending	pending	Major permit amendment under review by DEQ. Draft estimate in internal review.
1/2000	\$13,740	\$71,747	\$58,007	422%	Permit changed hands in 2000; comprehensive review undertaken
	\$33,200	\$33,200	\$0	0%	Awaiting bond release
3/2000	\$29,000	\$110,639	\$81,639	282%	Request for increase sent 12/13/00. Waiting bond increase.
8/2000	\$32,702	\$32,702	\$0	0%	Site undergoing final reclamation, confirmed during inspection 9/17/00. Completion expected 2001. No review necessary.
W	\$544,000	due now	\$0	0%	Needs 5-yr review in 2001.

9/2000	\$1,500	\$4,200	\$2,700	180%	Small quarry near Troy. Bond submitted to company 10/19/00. Waiting for bond.
	\$191,125	\$200,000	\$8,875	5%	Final reclamation by company almost complete as of 1/1/01
	\$83,000	\$83,000	\$0	0%	Anaconda limestone quarry owned by ARCO. Undergoing DEQ reclamation plan review. Small disturbance area. Bond adequate.
G	\$2,784,434	pending	pending	pending	Waiting to finalize water treatment obligations and submit for USFS review. Draft estimate in internal review.
	\$4,500	\$4,500	\$0	0%	Bond limited to \$500/ac by statute (1973 vintage permit).

ws = \$24,933,449  
 Reviews = \$62,922,725  
 5-year Reviews = 152.36%

The following exhibit  
exceeds 10 pages.

Exhibit 23

2.5.01

HB 69

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**The complete exhibit is located with the  
minutes are at the  
Montana Historical Society Archives  
225 North Roberts  
Helena, Mt 59620-1202  
(406) 444-4775**

**The following exhibit is photographs in a large album or mounted photographs that can not be scanned.**

Exhibit 24

2.5.01

HB 69

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**The complete exhibit is located with the minutes are at the Montana Historical Society Archives  
225 North Roberts  
Helena, MT 59620-1202  
(406) 444-4775**

*"An Act Revising the Definitions, Applicable Fees, Mine Performance Bonding and Appeal Procedures, and the Small Miner Exemption Provisions of the Metal Mine Reclamation Laws..."*

Introduction:

Madam Chair and members of the Board. Thank you for allowing me to testify concerning House Bill 69.

My name is Alan Gilda, I am a small miner. I dug a 10' (W) x 15' (L) x 4' (D) pit on my mining claim a few years ago so I could operate my sluice, because I was prohibited from discharging any wash water into the creek. The area was dredged in the 1930's by a land dredge that dumped the material back into a hole behind it. Even though it was already disturbed, but I was required to carry a full reclamation bond on it anyways. It cost me more to keep up my bond each year than what I bring out, especially when the forests are closed down like last year. Some say that this is bad economics and that I should just forget the whole thing. That is a great idea for someone who doesn't have mining in their blood, but I can't - my wife says that I am a "compulsive" small miner. That is my hobby, my mode of relaxation. I don't golf, I pan gold. I don't party and drink, I take rock samples. I apparently don't fit into what society is saying is an, "environmentally friendly" activity, so society proposes more and more rules all aimed at outlawing my hobby and my friends jobs.

That is why I am up here today.

Some of the proposed changes are good, but most are not good for the State of Montana nor the miners in Montana. House Bill 69 will increase regulations with the direct result of discriminating against the small miner. House Bill 69 will unnecessarily raise the miner's operating costs yet provide no real gain for the State. House Bill 69 is bad for the State of Montana by reducing the number of mining and exploration activities and their financial contributions to the State.

I do not think that is was the intent of the sponsor of this bill: to deliberately single out the mining industry to further discriminate against, but that will be the result of this bill if some modifications are not made.

In 1997, the 55<sup>th</sup>. Legislature revised some mining laws, much like these proposals, governing the Small Miner Exemption. Those revisions, when approved, required **ALL** disturbances over 10' x 10' to immediately be reclaimed or apply for a SME or operating permit or be in violation to the State.

Who knows of anyone that has a garden larger than 10'(W) x 10'(L)? If that person would pan one shovel full of dirt out of that garden, under a strict reading of the Law, that person would be in violation of the Montana Codes Annotated and subject to fines. The 55th legislature and now this one, the 57th, are further defining "mining" (gold panning, dredging, hardrock...) as actions that produce greater harm to Montana than crimes against humanity and other like-disturbances by non-mining related industries or group (ranchers, homebuilders, land developers, strip malls...).

Please listen to and carefully consider my following comments when you look at House Bill 69.

As I reviewed House Bill 69, I saw a few good ideas mixed in with a lot of very bad ideas and I felt that someone needed

to speak up. That is why I am here today.

- Pg. 3 - 21 This is a good idea to allow a person to be able to hold more than one SME at a time.
- Pg. 5 - 9 The wording seems to imply that not all small miners are required to reclaim their operation. The idea that current small miners don't have to reclaim is false. This does not seem to be the goal of House Bill 69. It would be cleaner to state, "*All small miners, under this rule, will be required to reclaim...*"
- Pg. 5 - 10 The requirement that a "small miner shall salvage and protect all soil material for use in reclamation..." may not always be desirable. Definition (16) Soil Material - means earth material found in the upper soil layers that will support plant growth.

Just because it is found in the upper soil layers and just because it is supporting some kind of plant growth does not necessarily mean that it is suitable for reclamation. I know of a few places where there is 3 or 4 feet of mill tailings that are supporting plant growth, but contains high levels of various heavy metals. This rule, as written allows me, a small miner to spread this material over my site because it is found in the upper soil layers and was supporting plant growth. The States intent would be clearer if the word "suitable" was added. - "shall salvage and protect all suitable materials for..."

- Pg. 5 - 30 Why is a small miner prohibited from joining with an operator of an adjacent  
Pg. 6 - 1 operation to share facilities? What is the definition of a facility? Is a road a facility? A substation? A mill? It would seem to be in the interest of the State to allow and encourage adjacent operators to share facilities. That would reduce the amount of disturbance needed for two facilities by half. Isn't approving and bonding just one facility for two operations more efficient and a better use of State resources than having to approve and bond two separate mills?

A small miner should be encouraged to share facilities with an adjacent operation because that would reduce disturbance needed for a second facility.

- Pg. 6 - 10 This is confusing. I thought all dredging/placer operation had to be reclaimed to the same standards listed in 82-4-336 - see Pg. 6 - 27 below. Why are they mentioned here?
- Pg. 7 - 27 A small miner who intends to use cyanide ore processing reagents...shall obtain an operating permit for that part of the small miner's operations...

- News Report: Last month the Helena IR reported that the state said that this bill is needed because some small heap leach operation in the Elkhorns recently closed and the state was left with the bill. I was under the impression, from the current rules, that all leaching operation had to be fully bonded.

- Pg. 8 - 4 Why is a person immediately suspended for life if a firm or business association they were affiliated with closes up and the department has to collect the bond to finish reclamation? Why does a person receive a harsher sentence for the failure of mining a business than any other type of business that fails or any other crime against humanity? The State slaps a person's hand for hitting someone while driving drunk,

but bans them for life from ever mining again because of a past mistake?

What is the state's justification to pronounce a harsher punishment upon a person just because he is a miner than upon someone else who has a gravel pit or subdivision that fails?

Pg. 9 - 22 This is not a good proposal. See Pg. 8 - 4 above.

Pg. 10 - 10 What is the justification for raising the exploration fees from \$5 to \$100? The fees should not be raised unless the State can provide a justifiable reason to. If the State is looking for ways to reduce the high number of exploration licences requested each year, raising the fee \$95 may be just the answer.

Pg. 11 - 11 What is the justification for raising the operating permit fees from \$25 to \$500. This seems a little extreme. The fees should not be raised unless the state can provide a compelling reason why such a drastic raise is needed. If the State is looking for a non-regulatory way to reduce the extremely high number of operating permits submitted each year, raising the fee \$475 may be just the answer. If the State insists on raising the fee, the State should submit a proposal to base the fee on the scale/size of operation: small operation, mid-operation, large operation. There is no need for a rule to say one size has to fit all!

<Note> These two fees are apparently intended to discourage any further mineral exploration or operations by small companies or individuals. Approving these fees will send just one more message to the mining community that Montana doesn't care and doesn't want anyone mining here anymore. For an economy that has continually gone down hill since the 1980's, it would seem that this is the wrong message to send an industry that brought Montana the prosperity it enjoyed up until the 1980's.

Pg. 13 - 15 This is not a good proposal. See Pg. 8 - 4 above.

Pg. 14 - 22 Isn't unforeseen contingencies already included in the bonding process? Why is it needed here?

Pg. 15 - 10 Why is the State proposing a 30 day public hearing for a proposed performance bond? What is the State hoping to get? This a bad idea. Isn't the State suppose to be the experts? Most of the public doesn't have a clue on the first thing about bonding and the State surely doesn't have the manpower nor time to educate them all. As long as the State does their job, there is no reason to even entertain the notion to hold a 30 day public comment period anyways. This is a bad idea.

What does the State plan to do when mis-informed people from around the world send in 1,000's of letters of protest against a mine? Is the State going to withhold their approval while each letter is personally answered? This is not a place the State needs to go. There is no justification for going there anyways. But, if the State insists upon doing this because they can, then there needs to be another rule providing the State with guidance on how to implement this idea and to require more staffing to handle the increased paperwork.

Pg. 16 - 21 What is the justification for raising the annual report fees from \$25 to \$100? The fees should not be raised unless the State can provide a justifiable reason to. What are other agencies charging other

industries to file their annual reports? If the State is looking for ways to discourage or close down small operators/businesses, they may be on to something by continuing to raise the cost of doing business in Montana until no one can afford to operate here anymore.

Pg. 18 - 4      What is the State's justification for needing unforeseen contingency bond on a piece of reclamation for 10 years? There is no justification for the State to forfeit a bond because a **POTENTIAL** problem may happen. That allow the State to operate by sheer speculation and personal prejudice, not based on or limited by sound rules and science. This is a very dangerous direction for the State to start heading in.

There is no reason to add this section, nor any justification for picking "10" years as a magic number. Why not 1 or 30 or even better, 50 years? Unless the State has facts and science to back up this proposal, there is no need to even include. Are similar time periods for like disturbances - gravel pits, construction sites...? What are their findings?

Pg. 19 - 28      What is the purpose for striking lines 28 thru 3, page 20? Why does the State want to discourage a person from reclaiming a site or repaying the State for reclamation on a site by outlawing them from **EVER** mining in Montana again? Why does this hold a higher degree of punishment for a miner than say a murder or a rapist or a drunk driver? Those people are all allowed to go back into society again, but a miner? **NO!** If for some reason the bond is forfeited by the State (all it has to be is for some **POTENTIAL** air or water violation), he is condemned to life by the State to **NEVER** mine in Montana again! Something is wrong with this picture.

This proposed rule removes all incentive for a person or company to do right. There is no reason to do any reclamation or payback any costs to the State because it just don't matter, you are condemned for life anyways!

#### Closing:

Mining is being discriminated against by ever increasing regulations all apparently aimed at exterminating mining in Montana and the US. Permitting and bonding are good, but these actions must be based upon like-activities, no industry specific. A road is a road. Why would a road on private property that happens to have an operating mine be more destructive than a road on private property that is used for a ranching operation? Why would a backhoe pit for a perk test be less harmful to the environment than a small backhoe trench used for sampling a placer deposit that is immediately backfilled? A road is a road and a pit is a pit. The State needs to stop discriminating against one industry just because someone thinks it is bad. Montana would not have become the State it was if it wasn't for mining. Montana wouldn't be the State it is today if mining and logging weren't facing extermination. Montana can't have both - prosperity and no jobs.

You have this opportunity to review House Bill 69 and to provide appropriate comments that will not only benefit the State, but also provide a State where our kids will be able to stay and find a decent paying job to raise their families here too. I urge you to take the good and strike the bad.

Thank you.

EXHIBIT 26

DATE 02-05-01

Bruce E. Cox HB 69  
Geologist  
737 S. 5th St. W.  
Missoula, MT 59801  
(406) 549-7280

2 February, 2001

Natural Resources Committee  
House of Representatives  
Montana Capitol, Helena, Montana

Dear Representatives:

House Bill 69 should not be advanced by your committee. It places unworkable permitting requirements on the mining industry, especially small miners, and more importantly, it relieves the DEQ of its responsibility to provide professional calculation and management of reclamation bonds.

It is my understanding that HB69 was drafted by the DEQ with input from the Legislative Finance Committee to address concerns about bonding overruns - an issue that deserves close scrutiny.

Mine reclamation is successful only if it meets the stated environmental goals at or below the calculated (bonded) costs. Success requires an accurate appraisal of project goals and costs by professional mining engineers with first-hand costing experience at operating mines. This level of expertise does not currently exist within DEQ. HB69 avoids this issue and would compound the problem by raising the cap on bonding and requiring an additional 10% for "unforeseen contingencies". This bill funds the bureaucracy but does not promote successful reclamation.

The goals of predictable mining regulation and improved environmental compliance would be much better served by a bill that has been studied and drafted cooperatively by industry and the State agencies. At a minimum, such legislation should include establishment of a Mine Engineering Technical Board that reviews the calculation of reclamation bonds, establishes a format for small miner plans of operation and provides arbitration for bond disputes. Efforts to draft this legislation have begun and will be completed in time for introduction to the 2003 Legislative Session.

HB69 proposes unworkable, piecemeal changes to Montana's mining laws and would erode what little incentive still exists to conduct responsible mining in our State. Please reject HB69.

Sincerely,



Bruce E. Cox  
Geologist and Small Mine Operator



HOUSE OF REPRESENTATIVE  
57<sup>TH</sup> LEGISLATURE

EXHIBIT 37  
DATE 02-05-01  
HB 69

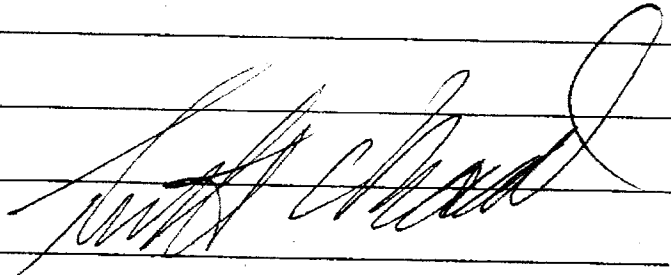
NATURAL RESOURCES COMMITTEE

WITNESS STATEMENT

PLEASE PRINT  
NAME Timothy L. RAWNSAL BILL NO. HB 69  
~~Montanans For Multiple Use~~  
ADDRESS P.O. Box 287 Townsend DATE 2-5-01

WHOM DO YOU REPRESENT? Montanans For Multiple Use (JAWbonechat  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

COMMENTS I am here respectfully requesting that  
this bill be shut down for many reasons, but  
the major reason is that this bill ultimately eliminates  
the small placer miner, and we must remember  
that if not for the small miner Montana would  
not be the great treasure state that we all  
enjoy.



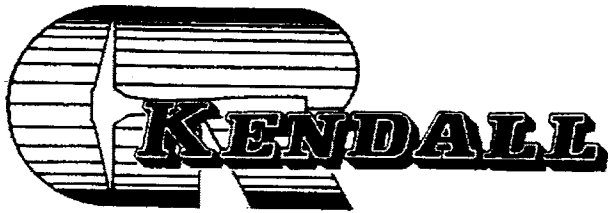


EXHIBIT 28  
DATE 02-05-01  
HB 169

**CR KENDALL**  
P.O. Box 799  
Hilger, MT 59451  
Phone (406) 538-2501

Fax (406) 538-7834

February 6, 2001

Representative Daniel McGee  
Montana House of Representatives  
P.O. Box 201701  
Helena, MT 59620-1701

Re: Testimony regarding HB-69

Dear Representative McGee:

In the Tuesday, February 6<sup>th</sup>, Helena Independent Record, I was surprised and disappointed to see the testimony given by Ms Mona Harrel before the House Natural Resources Committee regarding HB69. As part of her testimony, she suggested that the water supply at her ranch had been destroyed by activities associated with the CR Kendall Mine. In the interest of full disclosure, it must be pointed out that Ms Harrell's claims were investigated by the Montana Department of Natural Resources and Conservation (DNRC) and found to be **totally without merit**. I have attached a copy of a memorandum from Mr. Kirk Warren, Hydrogeologist, Water Management Bureau, to Scott Irvin, Regional Manager, Lewistown Water Resources Regional Office, that details the results of DNRC's investigation for your information. Further studies commissioned by the Montana Department of Environmental Quality (DEQ) strongly support the contention that the lack of water in springs located within the North Moccasin Mountains is the result of regional drought rather than mine-related activities (see "Environmental Change Detection Analysis of Water Resources in the Vicinity of the CR Kendall Mine, Hilger, Montana" prepared by Stuart Blundell, Integrated Geoscience, for Wayne Jepson, DEQ, March 1999). I must further point out that, even though there is no evidence that mine activities have impacted these springs, CR Kendall has been augmenting flows into the South Fork of Last Chance Creek (Ms Harrell's drainage basin) since early 2000 to help alleviate the water shortage.

While we empathize with Ms Harrel's situation, we cannot control the climate. Whatever the merits of HB69, it must be considered in the light of factual information. Ms Harrel's testimony unfortunately fell far short of mark.

If you require additional information, please don't hesitate to contact me.

Regards,

  
James E. Volberding

DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION



MARC RACOT  
GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

STATE OF MONTANA

WATER RESOURCES DIVISION (406) 444-6601  
TELEFAX NUMBERS (406) 444-0533 / (406) 444-5918

49 NORTH LAST CHANCE CULCH  
PO BOX 201497  
HELENA, MONTANA 59620-1497

MEMORANDUM

TO: Scott Irvin, Regional Manager  
Lewistown Water Resources Regional Office

FROM: Kirk Warren, Hydrogeologist  
Water Management Bureau

DATE: May 26, 1998

RE: Springs in Sections 5 & 6, T17N, R18E and CR Kendall mine

I received your map showing the locations of three developed springs in Sections 5 & 6, T17N, R18E. These are identified as the Lewis and Mona Harrell developed spring, the Jack and Ida Ruckman developed spring, and the Bob and Vickey Ruckman developed spring. As we discussed over the phone, it seemed from your descriptions of the position of these springs relative to surface water drainages and the location of the mine, that it is unlikely that operations at the mine could affect the springs.

Having the mapped locations of the springs, and comparing them with the geology of the area, there still seems to be no obvious way that mine operations, including the pump-back systems, would affect any of these springs. The idea that blasting may have influenced the flow of the springs cannot be evaluated with available information. We would need to compare spring flow records and blasting schedules to determine if there is any correlation between the two.

There is no evidence that bedrock aquifers are artesian in the vicinity of any of the three springs, at least to the extent that flowing wells or springs having a deep source would be likely to exist. A review of well records from the Montana Bureau of Mines and Geology Ground-Water Information Center for sections 31, 32, and 33, T18N, R18E, and for sections 4, 5, and 6, T17N, R18W, revealed no wells with flowing conditions. These include twelve wells less than 100 feet deep, and five wells greater than 100 feet deep. In this area, the bedrock formations exposed near the surface generally slope away from the North Moccasin Mountains, with thicker sequences of younger formations overlapping them toward the plains. Flowing conditions are observed out in the plains areas where the formations are found at depth, but typically not in the areas where the formations are exposed in the foothills.

The Lewis and Mona Harrell spring and the Jack and Ida Ruckman spring are both south of a creek that is a tributary to the stream on which the mine's pump-back station KVPB-5 is located.

STATE WATER PROJECTS  
BUREAU  
(406) 444-6616

WATER MANAGEMENT  
BUREAU  
(406) 444-6637

WATER OPERATIONS  
BUREAU  
(406) 444-0660

WATER RIGHTS  
BUREAU  
(406) 444-6610

The stream on which pump-back station KVPB-5 is found is named "South Fork Last Chance Creek" on the mine's pump-back system design detail diagrams provided to us by DEQ.

The tributary to South Fork Last Chance Creek near the Lewis and Mona Harrell and the Jack and Ida Ruckman springs issues from a small (some  $\frac{1}{2}$  to 1 square mile) drainage basin located about a mile south of the mine. Flow in this tributary would not be expected to be impacted by pump-back systems in the adjacent drainage basin to the north. The springs are south of the small tributary creek, issuing from the side of a north-facing slope. Above the springs, a fairly level high bench named The Park is present, and this area is capped by Quaternary age sediments, mapped as travertine by Feltis (1973). This area is the most likely source for the Lewis and Mona Harrell and the Jack and Ida Ruckman springs. Since an upwelling of deep aquifer water is unlikely as explained above, the likely source of small springs in this area is from higher ground. The springs are probably joint, fracture, or contact springs that are driven by groundwater from the higher areas to the south. It is possible that groundwater from South Fork Last Chance Creek above the elevations of the springs moves into the tributary area to spring up in the lower reaches of the tributary, however no information is available to determine if this ever occurred. To reach the springs, groundwater would have to further move beneath the tributary creek to spring up on the other side of the creek. This would require peculiar geologic conditions of which we have no reason to suspect exist. Therefore, based on information available at this time, it seems unlikely that activities at the mine could affect these springs.

From the mapped location you provided, the Bob and Vickey Ruckman spring is at an elevation of about 4480 feet. This is about 160 feet higher in elevation than South Fork Last Chance Creek at the base of the gully in which the spring is found. Examination of the topographic map shows that a few hundred acres of the hilly area where the spring is situated is above 4480 feet. This is the likely source area for this spring. The likelihood of groundwater moving from areas to the west is low, because the western end of the hilly area is at an elevation of just over 4480 feet. This is evident in about the middle of the south half of the NW  $\frac{1}{4}$  of Section 5 where the 4480-ft. contour enclosing the hilly area nearly meets (some 450 feet apart). Because the suspected source area is basically isolated from any surface or groundwater sources influenced by the mine, it seems unlikely that activities at the mine could affect this spring.

#### Summary

For all three springs, the expected recharge areas are situated such that impacts from pumping groundwater near the mine, or from the pump-back systems, seems unlikely. Somewhat unusual geologic conditions would have to be present for there to be a connection between any of these three springs and activities at the mine. A detailed mapping of geologic strata and groundwater gradients near the springs would be required to elaborate further on such possibilities. Any influence that blasting may have had cannot be evaluated at this time.

#### Reference

Feltis, R. D., 1973. Geology and Water Resources of Eastern Part of Judith Basin, Montana. Montana Bureau of Mines and Geology Bulletin 87.

## Testimony from Rick Jordan, Golden Sunlight Mines

Like it or not, mining makes a significant contribution to Montana's economy. Montana has been blessed with an abundance of valuable natural resources and modern technology allows those resources to be extracted with minimal long-term environmental impact. Any responsible miner, large or small, knows that reclamation is now a part of a miner's operating plan. Operators that do not understand this should not be in business in Montana or anywhere else. However, unreasonable regulations only serve to stop mining operations even prior to the feasibility stage.

Montana has gained a reputation as being unfriendly toward the mining industry. By doing so, we have locked out an industry that can move this State back up to the respectable economic ranks. We have the resources and we have skilled people who want to do best for the State as Montana is their home. Unfortunately, we have regulated the Montana mining industry almost out of existence. At the rate we are going, there will be no operating mines in Montana once those now operating shut down. This will be yet another severe blow to Montana's struggling economy. Small mining operations may not make a great contribution to Montana's economy, however, small operations sometimes turn into large operations that pump millions into local economies.

We must use caution when implementing additional reclamation requirements. Reclamation must be completed such that a property is returned to a useable condition for future generations. However, unreasonable reclamation laws written for the sole purpose of killing the industry should not be tolerated."

**Vote:** Motion that **CONCEPTUAL AMENDMENT BE ADOPTED** failed 4-16 with Clancy, Curtiss, Dale, and Mood voting aye.

**Motion:** REP. DALE moved that **SB 484 BE CONCURRED IN AS AMENDED.**

**Discussion:**

REP. HURDLE stated that she is wondering if the 70+ permitted mines are properly bonded.

REP. YOUNKIN stated that is not what this bill is about.

REP. HURDLE stated that she is concerned that the state may begin to rely on this fund and pay less attention to properly bonding.

REP. BROWN stated these monies are going to be used for past mistakes. The DEQ is getting better with all of the bonding issues.

REP. HURDLE asked Ms. Sensibaugh for some assurance that the 70+ permitted mines are appropriately bonded. Ms. Sensibaugh stated DEQ is very serious about doing correct bonding. There is a very strict process for doing an annual review to make sure that the mines are bonded for the current situation. There won't be enough money in the \$8,000,000 in SB 484 for DEQ to just relax and go away. REP. HURDLE asked, who do you consult with to determine adequate bonding? Ms. Sensibaugh stated DEQ works with the mining company and engineers that do the bonding calculation. They use standard manuals and standard information to develop those calculations.

*{Tape : 1; Side : B; Approx. Time Counter : 0.1}*

REP. STORY asked Mr. Chisholm why there isn't a reserve fund. Mr. Chisholm went over the structure of the debt service accounts and the reasons they are set up the way they are. REP. STORY asked isn't it wise to hold some of the money in reserve? Mr. Chisholm stated that the excess bond money goes into the reclamation account which creates the reserve.

**Vote:** Motion that **SB 484 BE CONCURRED IN AS AMENDED** carried unanimously.

**EXECUTIVE ACTION ON HB 69**

*{Tape : 1; Side : B; Approx. Time Counter : 5.9}*

**Motion:** REP. DALE moved that **HB 69 DO PASS.**

**Motion:** REP. DALE moved that **AMENDMENT HB006906.alm** BE ADOPTED.

**Discussion:**

REP. DALE passed out the amendments **EXHIBIT(nah68a06)** and he and **Mr. Mitchell** explained them.

REP. YOUNKIN asked REP. CYR and REP. LAIBLE if they had anything to add.

REP. CYR asked REP. DALE to tell the committee what DEQ and MEIC said about the amendments.

REP. DALE stated that they are not what everybody wanted but they were needed to get the bill out of committee. Everybody that was involved contributed to the amendments. He stated the meetings had more value than just the amendments.

REP. LAIBLE stated that there was a lot of participation in working on the amendments. The mining industry is working with the department to make sure that they are bonded properly. The amendments solve some of the problems. DEQ has really gone a long way in the way that they do bonding to make sure that the risks of mining problems are minimal. He stated that he is pleased with the outcome of the sub-committee.

REP. HURDLE asked, regarding amendment number 16, in order to modify a reclamation plan does there have to be a violation of the law? She stated that this seems like a Montana Mining Association bill as their amendments are all the amendments being presented. REP. LAIBLE stated that the department goes out on an annual basis to review the mine bonding. The department can then change their bonding requirements. REP. HURDLE asked REP. LAIBLE to explain amendment number 16. REP. LAIBLE stated, the written finding is probably what they need to expand the bond because they are going beyond their determined areas. They are increasing the exposure for reclamation so that's what the findings would be. REP. DALE stated, that part of the bill refers to a situation where the mining company has already forfeited the bond or done something where the department has to take over. He asked **Mr. Mitchell** to explain amendment number 16. **Mr. Mitchell** went over the amendment.

REP. HURDLE asked **Mr. Mitchell** doesn't this make it more difficult to do the bonding in an adequate way? REP. STORY stated that is not a question **Mr. Mitchell** should answer. REP. HURDLE stated it makes it more difficult for the department to do the bonding and the reclamation. Doesn't it make it more

difficult for the department? **REP. DALE** stated actually that makes it easier to bond because although the department calculates the amount of bond the mining company has to go to bonding companies to acquire the bond. That bond is what provides the money to do the reclamation if the company defaults in it's performance.

**REP. WANZENRIED** stated that he would like to segregate the amendments into two parts. One part would be amendments 5 - 9, 12 - 13 and 15 as they all deal with the 10% contingency language. **REP. WANZENRIED** asked **REP. DALE** to summarize the concerns with the contingency fee. **REP. DALE** explained the concerns. **REP. WANZENRIED** asked would that amount of the bond be approved by a bond counsel? **REP. DALE** stated no. The bonding company can not bond on unknown quantities.

**REP. STORY** stated that bonding for the 10% contingency would be way more expensive than 10% of the premium on a known project.

**REP. LAIBLE** stated, in current bonding applications there is a contingency between 4% and 7% but those are for quantifiable items as opposed to a 10% overall fee.

**Vote:** Motion that **AMENDMENTS 5 - 9, 12 - 13 AND 15 OF HB006906.alm BE ADOPTED** carried 14-6 with **Eggers, Erickson, Gutsche, Hurdle, Tramelli, and Wanzenried** voting no.

Discussion on remaining amendments:

*{Tape : 1; Side : B; Approx. Time Counter : 41.4}*

**REP. STORY** asked **REP. DALE** when the small miner language was taken out of the bill did that take care of gravel pits and sapphire mines, etc? **REP. DALE** stated they are not referred to in the small miner exclusion. Gravel pits are in the open cut and they are still bonded. Sapphire miners would be small miners if their surface disturbance is less than 5 acres so it took care of those.

**REP. LASZLOFFY** asked **REP. DALE** have all the concerns of the small miners been addressed? **REP. DALE** stated yes, they are excluded from this bill and back under all the provisions they were in existing law.

**REP. HARRIS** stated that he would echo what **REP. DALE** said regarding amendment number 16. It is an improvement.



**REP. STORY** stated, regarding amendment number 16, when the bonds are generally set up they are set up to integrate with the operating plan of the mine and a lot of that has to do with reclamation as mining is going on. When the mine gets into the position where the bond is forfeited, that indicates that their mining plan has gone down and consequently that integration between the mining plan and the reclamation plan isn't there anymore. That is where the bond isn't financially large enough to meet the cost of reclamation. He asked **REP. DALE** so when you go to the language in number 16, now they have to do a written finding is that how this works? **REP. DALE** stated, in general, yes. The rest of the bond would be available to finish the reclamation and this release is intended to cover urgent and immediate needs. The reclamation plan, as approved, would have the rest of the bonded funds available. **REP. STORY** stated he is concerned that the bonding company will only be obligated to deal with the reclamation that follows the mining plan. Does that indicate that maybe the bond will be lowered because of the reduced costs and there is not a contingency to take care of a situation when a mine's out of operation? **REP. DALE** gave an example in a hard rock mine. Most issues are addressed in the bond.

**REP. HARRIS** stated current law says that the amount of the bond is what it would take if DEQ actually undertakes the reclamation work. The tension has come into play because the mines can reclaim much cheaper.

**REP. DALE** stated, tension has existed historically and that is probably what created the situation we are trying to deal with. This bill and these amendments attempt to take that uncertainty out of the process. If the DEQ and the mining company disagree on the bonding amount they will go to a third party.

**Vote:** Motion that **REMAINING AMENDMENTS BE ADOPTED** carried 15-5 with **Eggers, Erickson, Gutsche, Hurdle, and Wanzenried** voting no.

**Motion:** **REP. DALE** moved that **HB 69 DO PASS AS AMENDED**.

**Discussion:**

**REP. CURTISS** asked **REP. DALE** does the bill, as amended include the sapphire mines? **REP. DALE** stated, to the extent that they have an operating permit yes. If they are under 5 acres disturbance they are still in the small miner exclusion. If they are over the 5 acre disturbance they would have to be bonded anyway.

**Vote:** Motion that **HB 69 DO PASS AS AMENDED** carried 17-3 with Curtiss, Hurdle, and Wanzenried voting no.

**EXECUTIVE ACTION ON SB 377**

*{Tape : 1; Side : B; Approx. Time Counter : 53.8}*

**Motion:** REP. DALE moved that **SB 377 BE CONCURRED IN.**

**Motion:** REP. DALE moved that **AMENDMENT SB037709.alm BE ADOPTED.**

**Discussion:**

REP. DALE passed out the amendment **EXHIBIT(nah68a07)** and explained it.

REP. CLANCY asked REP. DALE, what is the purpose of amendment number 2? REP. DALE stated if all other parts of the law were referred to there would be several explanation of completeness. This new language makes it exclusive to the MEPA law.

**Vote:** Motion that **AMENDMENT SB037709.alm BE ADOPTED** carried unanimously.

**Motion:** REP. DALE moved that **SB 377 BE CONCURRED IN AS AMENDED.**

**Discussion:**

Mr. Mitchell passed out another set of amendments **EXHIBIT(nah68a08)** and briefly explained them.

**Motion:** REP. LASZLOFFY moved that **AMENDMENT SB037704.alm BE ADOPTED.**

**Discussion:**

REP. LASZLOFFY asked **Michael Kakuk** to explain the amendments.

*{Tape : 2; Side : A; Approx. Time Counter : 0.1}*

Mr. Kakuk explained the amendments.

REP. GUTSCHE asked, is this amendment amending other statutes of law that aren't in this piece of legislation? REP. YOUNKIN stated yes.

REP. HARRIS asked Mr. Mitchell if this set of amendments is within the title of the original bill. Mr. Mitchell stated,

Amendments to House Bill No. 69  
1st Reading Copy

EXHIBIT 6  
DATE 3-26-01  
HB 69

Requested by

For the House Natural Resources Committee

Prepared by Larry Mitchell  
March 26, 2001 (12:25PM)

1. Title, line 5.

**Following:** "FEES,"

**Insert:** "AND"

2. Title, lines 6 and line 7.

**Following:** "PROCEDURES" on line 6

**Strike:** ", AND THE SMALL MINER EXEMPTION PROVISIONS" on lines 6  
and line 7

3. Title, line 9.

**Strike:** "82-4-305,"

4. Page 1, line 15 through page 8, line 27.

**Strike:** sections 1 and 2 in their entirety

**Insert:** "**Section 1.** Section 82-4-303, MCA, is amended to read:

"**82-4-303. Definitions.** As used in this part, unless the  
context indicates otherwise, the following definitions apply:

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

(2) "Amendment" means a change to an approved operating or  
reclamation plan. A major amendment is an amendment that may  
significantly affect the human environment. A minor amendment is  
an amendment that will not significantly affect the human  
environment.

(3) "Board" means the board of environmental review  
provided for in 2-15-3502.

(4) "Cyanide ore-processing reagent" means cyanide or a  
cyanide compound used as a reagent in leaching operations.

(5) "Department" means the department of environmental  
quality provided for in 2-15-3501.

(6) "Disturbed land" means the area of land or surface  
water that has been disturbed, beginning at the date of the  
issuance of the permit. The term includes the area from which the  
overburden, tailings, waste materials, or minerals have been  
removed and tailings ponds, waste dumps, roads, conveyor systems,  
load-out facilities, leach dumps, and all similar excavations or

coverings that result from the operation and that have not been previously reclaimed under the reclamation plan.

(7) "Exploration" means:

(a) all activities that are conducted on or beneath the surface of lands and that result in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation; and

(b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

(8) "Mineral" means any ore, rock, or substance (other than oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium) that is taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

(9) "Mining" commences when the operator first mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing in excess of aggregate of 10,000 short tons.

(10) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock mineral concentration processes.

(11) "Person" means any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of tailings or waste materials, or operation of a hard-rock mill.

(12) "Placer deposit" means:

(a) naturally occurring, scattered or unconsolidated valuable minerals in gravel, glacial, eolian, colluvial, or alluvial deposits lying above bedrock; or

(b) all forms of deposit except veins of quartz and other rock in place.

(13) "Placer or dredge mining" means the mining of minerals from a placer deposit by a person or persons.

(14) "Reclamation plan" means the operator's written proposal, as required and approved by the department, for reclamation of the land that will be disturbed. The proposal must include, to the extent practical at the time of application for an operating permit:

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

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

(c) the manner and type of revegetation or other surface

treatment of disturbed areas;

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

(e) the method of disposal of mining debris;

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

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

(h) maps and other supporting documents that may be reasonably required by the department; and

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

(15) (a) "Small miner" means a person, firm, or corporation that engages in mining activity that is not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings or waste materials, or, except as provided in 82-4-310, that knowingly allows other persons to engage in mining activities on land owned or controlled by the person, firm, or corporation; that does not hold an operating permit under 82-4-335 except for a permit issued under 82-4-335(2) or a permit that meets the criteria of subsection (15)(c); and that conducts:

(i) an operation that results in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or

(ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the respective mining properties are:

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

(B) at least 1 mile apart at their closest point.

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation:

(i) exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases; and

(ii) exclude access roads for which the person, firm, or corporation submits a bond to the department in the amount of the estimated total cost of reclamation along with a description of the location of the road and the specifications to which it will be constructed.

(c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The permit may be amended to add new disturbance areas, but the total area permitted for disturbance may not exceed 100 acres at any time.

(16) "Soil materials" means earth material found in the

upper soil layers that will support plant growth.

(17) (a) "Surface mining" means all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits exposed, including but not limited to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all similar methods by which earth or minerals exposed at the surface are removed in the course of mining.

(b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium or excavation or grading conducted for onsite farming, onsite road construction, or other onsite building construction.

(18) "Underground mining" means all methods of mining other than surface mining.

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

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

{Internal References to 82-4-303:

15-32-502ok 82-4-305 ok 90-6-302 ok}"

**Renumber:** subsequent sections

5. Page 14, line 11.

**Strike:** "(a)"

6. Page 14, line 17.

**Strike:** "i:"

7. Page 14, line 18.

**Strike:** "(i)"

8. Page 14, line 20 through line 23.

**Strike:** "i" on line 20 through "(1)(a)(i)" on line 23

9. Page 14, line 24.

**Strike:** "(b)"

10. Page 14.

**Following:** line 26

**Insert:** "(2) The department may calculate one or more reclamation plan components within its jurisdiction with the

assistance of one or more objective contractors selected jointly by the department and the mine operator and compensated by the mine operator when, based on relevant past experience, the department determines that additional expertise is necessary to calculate the bond amount for reclamation plan components. The department may contract for assistance pursuant to this subsection in determining bond amounts for the initial bond and for any subsequent bond review and adjustment."

**Renumber:** subsequent subsections

11. Page 15, line 13.

**Following:** "issuance"

**Insert:** "of the final bond determination. If the licensee or permittee demonstrates, through the exercise of reasonable diligence, that the licensee or permittee will not be able to post the bond within 30 days, the department shall grant a reasonable extension of the deadline"

12. Page 15, line 28.

**Strike:** "With" through "all"

**Insert:** "All"

13. Page 16, line 1 through line 2.

**Strike:** "With" on line 1 through "only" on line 2

**Insert:** "Only"

14. Page 16, line 7 through line 14.

**Strike:** subsection (7) in its entirety

**Insert:** "(8) (a) If the department determines that there exists at an area permitted or licensed under this part an imminent danger to public health, safety, or the environment caused by a violation of this part, the rules adopted pursuant to this part, or the permit or license, and if the permittee or licensee fails or refuses to expeditiously abate the danger, the department may immediately suspend the permit or license, enter the site, and abate the danger. The department may thereafter institute proceedings to revoke the license or permit, declare the permittee or licensee in default, and forfeit a portion of the bond, not to exceed \$150,000 or 10% of the bond, whichever is less, to be used to abate the danger. The department shall notify the surety of the forfeiture and the forfeiture amount by certified mail, and the surety shall pay the forfeiture amount to the department within 30 days of receipt of the notice. The department shall, as a condition of any termination of the

suspension and revocation proceedings, require that the permittee or licensee reimburse the surety, with interest, for any amount paid to and expended by the department pursuant to this subsection (8).

(b) If the department is unable to permanently abate the imminent danger using the amount forfeited under subsection (8)(a), the department may forfeit additional amounts under the procedure provided in subsection (8)(a).

(c) The department shall return to the surety any money received from the surety pursuant to this subsection and not used by the department to abate the imminent danger. The amount not returned to the surety must be credited to the surety and reduces the penal amount of the bond on a dollar-for-dollar basis."

15. Page 18, line 3 through line 7.

**Strike:** "However," on line 3 through "period." on line 7

16. Page 18, line 21.

**Following:** "lands"

**Insert:** "according to the existing reclamation plan or a modified reclamation plan if the department makes a written finding that the modifications are necessary to prevent a violation of Title 75, chapter 2 or 5, or to prevent a substantial reclamation failure"

17. Page 20, line 23.

**Strike:** "\_\_ Bill No. \_\_ [LC287]"

**Insert:** "Senate Bill No. 449"

18. Page 20, line 25.

**Strike:** "3 and 11"

**Insert:** "2 and 10"

19. Page 21.

**Following:** line 6

**Insert:** "NEW SECTION. **Section 15. Applicability.** Sections 82-4-303(6) and 82-4-338(8) apply to licenses and permits issued after [the effective date of this act] and to permits issued before [the effective date of this act] that are in effect on [1 year after the effective date of this act]."

- END -



**MINUTES**

**MONTANA SENATE  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN WILLIAM CRISMORE**, on April 3, 2001 at  
2:30 P.M., in Room 317 Capitol.

**ROLL CALL**

**Members Present:**

Sen. William Crismore, Chairman (R)  
Sen. Dale Mahlum, Vice Chairman (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mack Cole (R)  
Sen. Lorents Grosfield (R)  
Sen. Bea McCarthy (D)  
Sen. Ken Miller (R)  
Sen. Glenn Roush (D)  
Sen. Bill Tash (R)  
Sen. Mike Taylor (R)  
Sen. Ken Toole (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Nancy Bleck, Committee Secretary  
Mary Vandebosch, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 69, 3/30/2001  
HB 420, 4/2/2001  
Executive Action: None

**HEARING ON HB 69**

**Sponsor:** REP. MATT MCCANN (D), HD 92, Harlem

**Proponents:** SENATE PRESIDENT TOM BECK (R), SD 28, Deer Lodge

Bonnie Gestring, Montana Environmental Information Center

Richard Parks, Northern Plains Resource Council

SEN. ED BUTCHER (R), SD 47, Winifred

REP. EILEEN CARNEY (D), HD 82, Libby

Jon Metropoulos, Helena Attorney representing Golden Sunlight Mine

Jim Kuipers, Center for Science and Public Participation representing the Montana Environmental Information Center

John Smart, Photo Journalist, representing himself

Jan Sensibaugh, Director, Montana Department of Environmental Quality

John Wilson, Montana Chapter of Trout Unlimited

Leo Berry, Helena Attorney representing National Fire Insurance Company of Hartford

W.G. Wibberding, representing the Wibberding Family

Jeff Barber, representing the Montana Wildlife Federation, the Clark Fork Coalition, and the Montana Chapter of American Fisheries Societies

David Mannix, North Powell Conservation District Board

Opponents:

Angela Janacaro, Montana Mining Association

Frank Crowley, Helena Attorney representing Asarco

Ted Antonioli, President, Missoula Chapter of the Montana Mining Association

Gene Nelson, a small miner representing himself

Mike Collins, a placer miner representing himself

Don Allen, Western Environmental Trade Association

Dirk Nelson, Montana Tunnels Mine

Alan Gilda, Canyon Creek, a small miner representing himself

Virgil Roper, Lincoln, representing himself

Russ Ritter, Montana Rail Link Incorporated

Don Farley, Bitterroot Gem and Mineral Club

Harvey Frederick, representing himself

John Hinthier, Montana Mining Association-Graymont

Opening Statement by Sponsor:

REP. MATT MCCANN, HD 92, Harlem, stated HB 69 revised the definitions, applicable fees, and mine performance bonding and appeal procedures of the metal mine reclamation laws. It

allocated interest from the Hard-Rock Mining and Reclamation Account and the Opencut Mining and Reclamation Account back into those accounts. It amended sections 82-4-303, 82-4-311, 82-4-331, 82-4-332, 82-4-335, 82-4-338, 82-4-339, 82-4-341, 82-4-360, and 82-4-424 of the Montana codes and provided an immediate effective date. This bill originated from the Legislative Finance Committee during examination of the state's exposure regarding the lack of adequate bonding to adequately fund the needed reclamation. The first hearing on **HB 69** was quite contentious because of misunderstandings and discomfort with this bill amongst small miners, hobbyists, and the mining industry. A subcommittee evolved to work out those differences through discussion along with the Montana Department of Environmental Quality (DEQ). The small miners wanted their issue removed from the bill and addressed at a different time, separate from industry. After stating there were several amendments being offered, **REP. MCCANN** said that, to date, this bill had been based on consensus. He asked that the committee recognize the responsibility of the DEQ as well as the industry to recognize their responsibilities to reclamation. **REP. MCCANN** was excused for participation at another hearing.

**Proponents' Testimony:**

**SENATE PRES. TOM BECK, SD 28, Deer Lodge**, supported the bill and said its intent was not to hurt the small miners or others but to level the playing field so even small mining operations required a bond to insure clean-up.

**Bonnie Gestring, Montana Environmental Information Center (MEIC)**, stated **HB 69's** original intent was to strengthen Montana's reclamation bonding laws and enjoyed broad support in the House. The Legislative Finance Committee commissioned a report, entitled Metal Mine Performance Bonds and State Liability, which was completed in February 2000 by the Legislative Fiscal Division. That report concluded the state faced approximately \$25 million in un-bonded reclamation costs. Since that report was released, the state had determined an additional \$8 million was needed for clean-up at the Kendall Mine near Lewistown. The water treatment plan failed at the Beall Mountain Mine, so an additional \$4 million was needed there. Far more than the \$7.5 million would be needed at the Zortman/Landusky Mine. When the mine's reclamation plan was amended and completed, costs for clean-up would be estimated and a new bond would be calculated. **Ms. Gestring** said these costs would only continue to grow. She referred to **SB 484** which was intended to generate some funds to use for mine reclamation based on selling general obligation bonds which would be paid off over time by the Metalliferous Mines License Tax. She added that the revenue stream from that

tax, however, would only generate \$8 million with an anticipated ten to thirty years to pay it off. This amount was not going to address any one of the mines with outstanding liabilities. **Ms. Gestring** referenced a red book titled 1995 Summary Report from the Abandoned Mine Reclamation Bureau of the DEQ. She shared several examples of the 269 abandoned mines in the state with severe water and other environmental impacts yet to be addressed. She added that small hard-rock mines, 300 currently permitted in Montana, were currently not required to reclaim unless they had a leaching facility and were also exempt from the bond posting requirement. The small placer mines, those that disturbed the stream bank and sediment, were required to post a bond capped at \$10,000 and to reclaim the site. If the costs exceeded the \$10,000 cap, the state had no ability to collect or increase the bond. **Ms. Gestring** offered **EXHIBIT(nas75a01)**, photographs of placer mines around the state. She pointed out some significance of the disturbance when working five acres straight down a streambed. **Ms. Gestring** discussed some of the existing impacts and distributed several exhibits listing water bodies in the state that did not currently meet their beneficial uses due to probable sources of impacts from mining; **EXHIBIT(nas75a02)**, 132 water bodies impacted from abandoned mining; **EXHIBIT(nas75a03)**, 58 water bodies impacted from acid mine drainage; **EXHIBIT(nas75a04)**, 11 water bodies impacted from dredge mining; **EXHIBIT(nas75a05)**, 20 water bodies impacted from mill tailings; **EXHIBIT(nas75a06)** 28 water bodies impacted from mine tailings; **EXHIBIT(nas75a07)**, 16 water bodies impacted from placer mining. With the outstanding liabilities the state already faced, **Ms. Gestring** thought it was critical, reasonable, and fair to first amend **HB 69** to get at the underlying problem of fixing the reclamation bonding provision so bonds adequately covered costs of reclamations at both large and small mines; those disturbing an area sized less than five acres. The House amended out reclamation and bonding requirements for small miners. The MEIC suggested those requirements be reinstated as the Finance Committee report (page eight) found that the maximum limit for small miners "may not be adequate to cover all of the costs of reclamation". The Finance Committee recommended requiring reclamation for all mining activities except those under 100 square feet. The MEIC was not asking the current operators to post the bond but rather any new small mines. **Ms. Gestring** stated water quality was often the concern related to hard rock mine reclamation. In a section entitled "Focus on the Entire Environment" (page eleven), the Finance Committee report discussed the possibility of ensuring that bonds focused not just on earth moving, but also on reclaiming environmental damage that had occurred on-site. She added that existing law did not explicitly describe how water treatment was bonded or provide a description of how or when that could occur. The MEIC proposed a

second amendment be introduced that required, when permitting mines whose operating plan or reclamation plan included surface or groundwater treatment, a bond be posted up front to address long-term water treatment. During the course of the mine life, if degradation of water quality developed and was identified from field investigations or results monitoring, at that point the DEQ would require the company post a bond covering water treatment costs. The House added language to the bill stating that DEQ could only reclaim to the original reclamation plan unless certain findings were made. The Finance Committee report (page seven) found that often times there were unforeseen events and changes in circumstances on the site and that reclamation plans were not often changed frequently enough to keep pace with changes in law. The MEIC thought this was unnecessarily restrictive and recommended changing this language back to the way it was originally in statute which would allow the agency greater flexibility and not require them to use an outdated reclamation plan. She said the MEIC supported **HB 69** with their proposed amendments and claimed it would prevent additional mines from being added to the long list for reclamation the state already had.

**Richard Parks, Northern Plains Resource Council**, said his organization echoed MEIC's testimony and provided **EXHIBIT(nas75a08)**, Metal Mine Performance Bonds and State Liability, a report prepared for the Legislative Finance Committee by Roger Lloyd, revised February 29, 2000; **EXHIBIT(nas75a09)**, a packet of six editorials from Montana newspapers referencing bonding and reclamation; **EXHIBIT(nas75a10)**, a map of a proposed placer exploration project on a gravel bar on the Yellowstone River about four miles from where he lived. He asked the committee to specifically focus on the proposed exploration project of which the DEQ received and reviewed the application and concluded \$8,000 was needed to assure reclamation of the exploration project alone. He added that an \$8,000 tab for an exploration project was unrealistic if it turned into a mine as it was not conceivable to successfully bond that project within the \$10,000 cap. He said this example provided an explicit reason why **HB 69** be amended to cover the small miner.

**SEN. ED BUTCHER, SD 47, Winifred**, supported **HB 69** and offered **EXHIBIT(nas75a11)**, a letter from Stephanie and Alan Shammel, ranchers below the Kendall Mine near Lewistown, and a letter published in the Tribune authored by Stephanie Shammel. He stated some of the reclamation in the Kendall Mine area could have been looked at very quickly and instead was pushed back repeatedly. Some of his district's people had a real concern that the bonding was inadequate and their needs were not going to be

met. He asked the committee to read the letters and seriously consider passage of **HB 69**.

**REP. EILEEN CARNEY, HD 82, Libby**, thought it was interesting that in hearing this bill today, simultaneously, the headlines across the state were screaming about W.R. Grace declaring bankruptcy. Another headline today stated that the United States Environmental Protection Agency was suing W.R. Grace for \$10 million for damages for the clean-up at the vermiculite mine at Libby. Originally, W.R. Grace paid \$32,000 in 1972 to bond the mine site at Libby. In 1988, that bond was increased to \$440,000. In 1994, the state released \$400,500 back to W.R. Grace saying the company had done the clean-up around the mine. In 1999, the state recommended that the DEQ return the remaining \$67,000 to W.R. Grace. To date, the DEQ is still holding the remainder. When the people in Libby saw that headline in the paper, they protested and requested a public hearing. Then an investigation was made about the mine site and subsequently the EPA went in to clean up the mine site. She noted that the total bonding was under \$500,000 and yet the EPA spent \$10 million to clean-up the mine site. **REP. CARNEY** stated that Montana needed to do something about the bonding that these companies pay. She referred to page nine of the bill where it also included load-out facilities in the bonding process. She explained that W.R. Grace only paid the bonding on the mine site but that there were areas all over Libby that had to be cleaned up after they left including the ball parks and the high school track that were built with mine tailings. She urged support of **HB 69**.

**Jon Metropoulos, representing Golden Sunlight Mine**, distributed their proposed amendments, **EXHIBIT(nas75a12)** and said A and E related to each other and served as a deterrent to mine operators pursuing litigation with the DEQ. Amendment A addressed sections three and five, "non-issuance of exploration license or operating permit-merely punitive". Amendment B addressed contingencies in section six, "third-party contractor may assist in bond component calculation; procedure for selecting contractor; contingencies exactions prohibited". Amendment C addressed section six, "submission of disputed bond amount prior to hearing unconstitutional and unfair". **{End of Tape: 1; Side: A}** Currently, **Mr. Metropoulos** reported the permittee must submit the bond amount in full. Amendment D addressed a technicality in section eight, "procedure for written findings exists in 82-4-337(3)". Amendment E addressed section nine, "treatment of negotiated settlement same as a forfeiture merely punitive and promotes needless litigation". **Mr. Metropoulos** concluded by emphasizing the need for this issue to be addressed and the Golden Sunlight Mine's proposed amendments would make **HB 69** fair to all.

**Jim Kuipers**, a professional mining engineer based in Boulder, MT, working for the **Center for Science and Public Participation** stated his organization was here today **representing the Montana Environmental Information Center**. He offered **EXHIBIT(nas75a13)**, Amendment to HB 69 proposing a provision for water quality treatment bonds. He said he spent the last three years researching reclamation bonding practices in the western United States as conducted by other states as well as federal government agencies and advised various public interest groups, state agencies, private entities, and mining companies in the proper calculation and implementation of bonding for hard-rock mining reclamation. **Mr. Kuipers** stated that, clearly, water treatment was the most overlooked and often the most expensive part of reclamation, especially occurring with hard-rock mines. He stated that Montana was a "poster-child" in the country for how reclamation bonds, particularly relating to water treatment, could fall far short of what was necessary. He said he also represented the Fort Belknap Tribal Government and was working with the state coming in line with the EPA in determining the cost of water treatment for the Zortman/Landusky Mine where, presently, the cost of surface reclamation appeared to be equal to the cost of water treatment. He reported that even some of the more mundane mines in Montana had significant impacts; the DEQ determined the tailings pond at Asarco's Troy Mine would require water treatment and calculated an official \$1 million bond after estimating clean-up costs. Presently in the Montana Metal Mines Reclamation Act, there was no explicit requirement for water treatment bonding though it was commonly done by the agency. **Mr. Kuipers** stated many of the mining water treatment scenarios would continue for hundreds of years and described them as "water treatment in perpetuity" or until the next "ice age" event. He stated the water treatment bonds were the only way to ensure future generations did not end up being responsible to assume clean-up costs by themselves. He encouraged support of his proposed amendments to bring **HB 69** to its fair and full measure to provide the level of protection for surface reclamation and water treatment.

**John Smart, representing himself, a photo journalist**, stated he spent two summers photographing the Zortman/Landusky Mine. He said he was not an expert regarding science but after spending time there, realized there were problems that could not be solved and that fifth generations would live with the economic consequences. He said surface reclamation was one thing but pollution of underground aquifers in a large operation like Zortman/Landusky had not even been looked at. He said he photographed a stock tank one and a half miles south of the mine erupting with acid mine drainage and heavy metals. The same thing had already happened at the Kendall Mine with insufficient

funding. There were friends, neighbors, ranchers, and fourth generation Montanans that had no water and this was all "real" and the state needed to look at the big picture, our "real" economy and our grandchildren. He pondered what kind of economy would revolve around the Clark Fork River if it was not in the 90-mile superfund site; construction jobs, guides and outfitters working, a clean industry for centuries. **Mr. Smart** stated we had a problem with the Clark Fork River that could not be solved. He stated the small mines at the headwaters of the Ten Mile Creek created a multi-million dollar clean-up project in trying to keep Helena's water clean. He claimed proper bonding could stop these problems before they started and reached proportions that could not even be calculated, billions of dollars of future economic liability for the people of Montana. He said he was familiar with the popular myth that "mining was wonderful, the foundation of our economy" but advised checking out the statistics claiming it was a minor contribution to our economy. He asked the committee, as lawmakers, to pass a law that would protect the public from these types of activities which he tended to categorize as criminal activity harming our society.

**Jan Sensibaugh, Director, Montana Department of Environmental Quality (DEQ)**, provided written testimony, **EXHIBIT(nas75a14)**. She also provided **EXHIBIT(nas75a15)**, AMENDMENTS TO HOUSE BILL NO. 69 (Third Reading Copy) and advised it contained a technical error as it should have referenced 82-4-338(8) rather than 82-4-338(7).

**John Wilson, Montana Chapter of Trout Unlimited**, entertained if anyone had noticed that trout and mineral deposits were often found in the same places such as high mountain streams and the rivers they fed. He said that currently Montana was the most popular destination for recreational trout fishing in the country because Montana had a wild trout population, a natural appropriation; trout were not "stocked" in our waters. The headwater streams, often the same site of mineral deposits, were the nurseries for the wild trout that spawned a very healthy, viable recreational sportfishing industry. It used to be that small mining was a job and trout fishing was a hobby. That has changed and was not necessarily a truth anymore. In 1999 in Montana, expenditures by stream and river fishermen were \$157.3 million and including the expenditures of \$65.5 million by lake fishermen produced a grand total of \$222 million spent in the sport fishing industry. That was big business and employed lots of folks. Controversially, there were relatively few small miners that were active. From information obtained from the DEQ, it was estimated that out of 100 small miners, maybe only 30 were active. While the small miners were good folks, their contribution to Montana's overall economy was minimal compared to



that of the recreational fishing industry. Montana had spent millions of dollars cleaning up old mines and still had 132 stream segments that could not meet their beneficial uses including the ability to support fish, specifically due to abandoned mines. **Mr. Wilson** stated that was income lost to the state, not just from one year but over many years. He said if politics were set aside and a decision was made based on what was best for Montana's economy as a whole, it would be clear and extremely reasonable that protecting and enhancing the sport fishing industry and the jobs and contributions it made to Montana's economy would be the decision. **Mr. Wilson** said it made good sense to protect the taxpayers from the potential liability associated with un-reclaimed or partially reclaimed mine sites. He said small miners needed to be amended into the bill as, given the abandoned mine history in the state, it was time for miners to take responsibility for their actions by posting adequate reclamation bonds, not only to protect jobs but also the taxpayers. Trout Unlimited urged the committee to amend **HB 69** and DO PASS.

**Leo Berry, representing National Fire Insurance Company of Hartford**, offered **EXHIBIT(nas75a16)**, their Amendments to House Bill No. 69 as passed by the House. He said his client issued the bonds on several of the major mining operations in the state and it was important bonding companies felt comfortable with the process to continue to issue bonds so Montana had a healthy mining program. He explained amendment one and four applied when a bond was under review, revoked or expired. The bonding company wanted to make sure mining or any additional activity did not continue until the bond had been replaced as they continued to be liable for any activity even though there was no permit or it had been suspended. The second part of the amendments applied when the DEQ forfeited all or part of the bond to do emergency work. If interest had been earned on the un-needed bond proceeds, the amended bill would return the bond proceeds and the interest to the surety company. **Mr. Berry** encouraged adoption of the amendments to **HB 69**.

**W.G. Wibberding, representing the Wibberding family**, supported **HB 69**. No testimony was given.

**Jeff Barber, representing the Montana Wildlife Federation, the Clark Fork Coalition, and the Montana Chapter of the American Fisheries Societies**, supported **HB 69**. No testimony was given.

**David Mannix, North Powell Conservation District Board**, supported **HB 69** with **EXHIBIT(nas75a17)**, a letter to the committee.

**W.S. McGinnis, owner, and Chris Koonce, manager, Cal-Creek Ranch, Madison County,** supported **HB 69** with **EXHIBIT(nas75a18)**, a letter to the committee.

**EXHIBIT(nas75a19)**, Amendments to House Bill No. 69, 3<sup>rd</sup> Reading Copy, HB006911.alm, requested by **SEN. KEN TOOLE**.

**EXHIBIT(nas75a20)**, Amendments to House Bill No. 69, 3<sup>rd</sup> Reading Copy, HB006910.alm, requested by **SEN. BEA MCCARTHY**.

**Opponents' Testimony:**

**Angela Janacaro, Montana Mining Association,** referred to some proponents' testimony regarding Zortman/Landusky, the Kendall mine sites, and a large book shared by the MEIC on abandoned mine sites. She stated **HB 69**, in the un-amended form, never addressed any of those problems. **Ms. Janacaro** stated that abandoned mine sites had their own division within the DEQ that was a greatly followed and admired program and the DEQ did a great job cleaning up abandoned mines. She added that the bonding provisions never applied to those mines because they were "historic". She offered amendments, **EXHIBIT(nas75a21)**. On page 14, line 23 of the bill regarding fees being increased to \$500, she said corporate miners had no problem with that, but small miners did. They recommended replacing the "\$500" with "If the person is disturbing between 5 and 15 acres, the person shall pay a basic permit fee of \$25". On page 18, line 10, regarding usage of a third party for bond amount determination, they would agree with the addition that the contractors would be selected and "directed and compensated" jointly by the DEQ and the mine operator because many miners feared it would be an open checkbook for the DEQ to run as many studies as they wanted to bond a mine. On page 18, line 28, **Ms. Janacaro** thought public input for determination of a bond amount was not necessary. On page 18, line 29, they recommended "in 30 days" be inserted following "determination". Regarding lines 7 through 10 on page 19, she said a precedent was set that allowed the DEQ to require the permittee to put up bond in full even if the permittee disagreed with the amount and before it could be appealed. If they did not, their operating permit would be pulled and they would be out of business. She did not think that was justice. The other amendments to page 24, lines 10 through 15, dealt with the provision that disallowed the DEQ to issue an operating permit if a person was involved in a company in some way that forfeited their bond. Her group proposed that the entire subsection (2) be stricken and resubmitted with new language that existed before; allowing a person to redeem themselves. If the DEQ had to go in and clean up the reclamation, before that person could be allowed to receive an operating permit, the expenses and interest had to be re-paid to

the DEQ. With those amendments, the Montana Mining Association supported **HB 69**.

**Frank Crowley, representing Asarco**, supported **HB 69** with a few selected amendments. He pointed out the concerns expressed by some of the proponents were valid. He stated the mining industry today would not come in and conduct any operations without a sufficient guarantee to the public and taxpayers. **Mr. Crowley** added that most of the experiences shared today resulted from bonds written many years ago. He said the DEQ had come along way and was more sophisticated and certainly more conservative today in the writing of the bonds. He also pointed out the irony when issues were discussed concerning the Resource Indemnity Trust, currently at about \$100 million, that funded many state programs in which its original purpose was to address many concerns discussed today. He referred to the bill language on page 19 regarding the "condition precedent" wherein it stated that before a permittee could request an appeals hearing, the full bond amount be submitted to the DEQ. He understood the decision was a result of another bill before the Board of Environmental Review. **{End of Tape: 1; Side: B}** He was concerned of the effect on any applicants' rights and thought it unfair and actually took away their right to request a hearing to contest a bond. He urged consideration of amendments for deletion of that portion of **HB 69**.

**Ted Antonioli, President of the Missoula Chapter of the Montana Mining Association**, stated he represented mostly the exploration and small mine operators in western Montana. He said some proponents distorted the picture of mining impacts. **Mr. Antonioli** suggested the economic impact on counties was very substantial because four of the top six wage counties in the state were mining counties; Rosebud, Stillwater, Jefferson, and Butte-Silverbow. He urged the committee look at figures available from the Montana Department of Commerce. He emphasized mining was extremely important in a state where wages had declined and a severe problem existed with the disappearance of basic industry. He pondered some of the causes why mining and small miners had declined. Every year the "think tank" Frazier Institute of Canada surveyed the investment climate for mining around North America. In their 2000-2001 report, 69% of the mining companies and mineral investors surveyed said that the uncertainty regarding the administration, interpretation, and enforcement of existing regulations was a very significant deterrent to investing in mining in Montana. However, **Mr. Antonioli** said the biggest deterrent was Montana's environmental laws. He said if you mined an ore body from the surface, cyanide could not be used. If you mined the exact same ore body from underground in the exact same plant, you could use cyanide.

Therefore, he reasoned the cyanide ban was irrational and just one example in Montana law that caused the state to be blackballed by 80% of the mining companies and mineral investors in North America. He said if the state wanted mining in Montana to be a significant and continuing trigger to the economy, a process was needed by the state improving the certainty of administration, interpretation, and enforcement of the laws. **Mr. Antonioli** stated the DEQ already had the ability to address water quality issues and continued treatment and required very significant increases in bonding. Since the legislative audit in 1998, the DEQ increased his company's bonds by 152.36% and the Barrett's Mine's bond was reviewed and increased from \$1.054 million to \$4.543 million. He charged this so-called problem was already being addressed by the DEQ and that **HB 69** did nothing to take care of the Zortman-Landusky Mine which he proclaimed paid \$18 million in state taxes. He said **HB 69** was very significantly amended in the House but suggested NEEDED AMENDMENTS TO HB 69, EXHIBIT (nas75a22). He thought the 30 day public comment period on the proposed bond determination was unnecessary and contended the right to a hearing for appealing the final bond determination should not require the full bond amount be posted as a condition to that right. In section 3, subsection (3)(a), his group recommended that after "a principal or controlling member", "at the time of the default" should be inserted. His group requested striking all fee increases throughout the bill. He stated that what the lower threshold was, maybe a gold panner, concerning the need for an exploration license was just not clear and new language was needed to clarify that requirement since the fee increased \$5 to \$100. They also proposed in section nine allowing for redemption of miners that met their reclamation responsibilities. He urged passage of **HB 69** with their amendments.

**Gene Nelson, a graduate engineer representing himself as a small miner**, stated he was sensitive to the bond shortfall problem and had no objection to adequate bonding to spare taxpayers and the public from the responsibility. **Mr. Nelson** stated **HB 69** appeared to address much more than just the bond shortfall and added more to the process while at the same time this legislature was streamlining processes for efficiency regarding MEPA. He opposed the bill in its present form and believed it was absolutely imperative the amendments offered by the Montana Mining Association be adopted.

**Mike Collins, Helena, representing himself as a placer miner since 1971**, stated he was one of the small miners being directly attacked in this issue and he was not the guilty party who caused the perceived problems with historic mining in Montana. As a result of this, he thought Holly Swanson had a very appropriate

title in her book, Set Up and Sold Out. **Mr. Collins** stated mining was a very important facet of Montana's history and industry and with abundant mineral wealth continued to be so. He asked if individual freedom and economic liberty were the price Montanans were being asked to pay and if common sense was to be replaced by theory and concept models and stated he was not willing to succumb to that. **Mr. Collins** submitted the sky was not falling in 1971 nor today. He urged serious consideration of this legislation.

**Don Allen, Western Environmental Trade Association**, opposed **HB 69** in its present form. WETA supported the bill with the Montana Mining Association's amendments offered by **Ms. Janacaro**.

**Dirk Nelson, Montana Tunnels Mine**, also opposed **HB 69** in its present form but supported it with the Montana Mining Association's amendments attached. He also extended an invitation to the committee to come out and visit the large, open-pit Montana Tunnels Mine as an excellent opportunity to see how mining was done responsibly with protection to the environment and reclamation concurrent with production.

**Alan Gilda, Canyon Creek, representing himself as a small miner**, also supported the bill with the Montana Mining Association's amendments attached. He disagreed with the exploration and operator permit fees and the 30 day public comment period regarding determination of a bond amount and offered **EXHIBIT(nas75a23)** that addressed those concerns.

**Virgil Roper, Lincoln, President of Blackfoot River Gold Prospectors' Association of America**, stated he would like to see implementation that all hand-fed mining equipment would be exempted from all of the provisions in **HB 69**.

**Questions from Committee Members and Responses:**

**SEN. KEN TOOLE** asked how the bonding worked especially regarding foregone potential interest earnings. **Leo Berry** explained that typically the smaller mining operations did not use a bonding system in the traditional sense, they usually put a CD or a cash deposit up for a small operation. Larger operations buy a bond from a company, such as his client. The bonding company reviewed the client's permit application and reclamation plan and once the bond amount was determined by the DEQ, the bonding company evaluated the risk including the financial well-being and stability of the permittee and the reclamation and project itself and then established a rate. **Mr. Berry** said the charge would vary depending on those factors. Regarding interest, he referred to page 20, subsection 8, wherein it provided a process whereby

the DEQ could, in the case of an emergency or imminent hazard, forfeit a portion of the bond up to \$150,000. On page 20, line 21, a provision stated the DEQ shall return to the surety any money received pursuant to the subsection and not used by the DEQ. **Mr. Berry** stated his point was that if there was interest earned on that amount and it was not utilized as part of the remediation activity, that interest ought to go back to the surety company along with the balance of bond proceeds. **SEN. GROSFIELD** asked about **SB 484** sponsored by **SENATE PRES. BECK** and **Ms. Sensibaugh** responded it was to create an account for the DEQ to sell bonds merely to raise money to do reclamation on underfunded situations the department currently had or would have in the future, but did not address the process in the Metal Mine Reclamation Act. **SEN. GROSFIELD** asked the DEQ to comment on the amendments, the DEQ's current capabilities of water treatment bonding, and a better proposal addressing long-term water quality treatment. **Ms. Sensibaugh** said she was reluctant to comment without adequate review of the amendments, so her response was conceptual. She explained the DEQ had a handle on costs and bonding of the historical dirt work portion of reclamation but water quality issues had mushroomed and with science and technology changing so rapidly regarding water quality treatment, that added some difficulty. She reported unanticipated or unexpected water quality problems were seen at some mines. Many of the problems required water quality treatment with a plan operating in perpetuity, or 100 years as DEQ defined that term, or until science changed providing alternatives, which was difficult to cost estimate for bonding purposes. *{End of Tape: 2; Side: A}* **CHAIRMAN CRISMORE** asked about the separation of the bond from Libby's W.R. Grace Mine's reclamation work done at the mine site and the off-site asbestos contamination. **Ms. Sensibaugh** stated the DEQ held an adequate bond for reclamation from the plan at the time it was put together. As the company remained on site and did the reclamation, the DEQ visited and certified the completed reclamation and released the bond portion held for the portion of reclamation completed. She said the bond was not forfeited because the company was on-site doing the reclamation. However, because of the Metal Mine Reclamation Act, the DEQ only permitted and bonded the site where the mining actually occurred with no bonding for off-mine site places where asbestos had now been found. Because there was a liable company, up until today she guessed, W.R. Grace was doing the work and the bond was just being held by the surety in case they weren't there to do the work. **CHAIRMAN CRISMORE** said he realized the loading sites probably needed to be included. Referring to W.R. Grace's actual mine site itself, he said the state was aware for many years there was asbestos within that mine. Now that the state knew that asbestos caused a health problem and if the mine was still in operation and their bond had not been released, would W.R.

Grace then be liable for the billions of dollars it would take to cap that entire mountain, with asbestos viewable in any road-cuts. He asked if, at this point, the DEQ had a bond to cover those situations. **Ms. Sensibaugh** stated the procedure used by the DEQ when new circumstances arose, such as operating changes or a discovered health risk associated with a mine site, was that the DEQ re-did the reclamation plan necessary to re-claim that mine and re-calculated the bond according to the new reclamation plan and then had the company post that bond. **SEN. TOOLE** asked how often the DEQ faced problems with water treatment shortfalls related to the bonding process. **Ms. Sensibaugh** stated it was almost every time. **SEN. TOOLE** asked what the process was when the DEQ began to see water quality problems with an operating mine. **Ms. Sensibaugh** responded the DEQ went to the mine, advised the mine of the problem identified, began discussion, often did additional monitoring, revised the reclamation plan, recalculated the bond, and had the mine post the bond. She stated there were various negotiation appeal processes that could slow it down though the mine continued to operate under its current permit and reclamation plan. **SEN. TOOLE** reasoned that water quality continued to deteriorate and degradate during that process and asked how water quality would be protected if the project was not providing the full cost. **Ms. Sensibaugh** said the state would have to somehow step in to protect the water quality. **SEN. TOOLE** asked if it was fair to say that the state would end up assuming those costs. **Ms. Sensibaugh** stated the DEQ did enforcement and changed reclamation plans and re-bonded. The state wanted the company to be responsible and attempted to make sure the company stayed on-site and took responsibility for clean-up. It was only when the mine could not or would not, that the state would have to step in. **SEN. COCCHIARELLA** asked **Angela Janacaro** if there were amendments here that were also considered or rejected in the House. **Ms. Janacaro** stated that when the House went into sub-committee, the Montana Mining Association gave **Larry Mitchell**, legislative staff, a draft of the amendments they had proposed. She added that the DEQ and the Golden Sunlight Mine had individual amendments. All of the amendments were worked through to come to the bill before us today, but not every request was granted. **SEN. GROSFIELD** asked about the House vote with passage of **HB 69**. **Ms. Janacaro** reported it passed with a vote of 95-4 on the second reading.

**Closing by Sponsor:**

**CHAIR CRISMORE** closed the hearing as **REP. MCCANN** had been excused.

**The following exhibit is photographs in a large album or mounted photographs that can not be scanned.**

Exhibit: 1

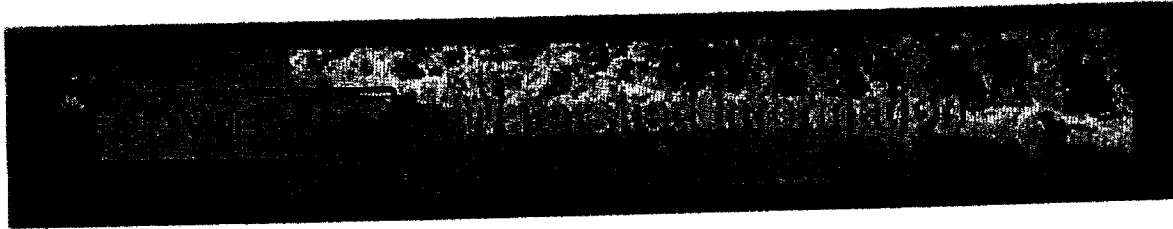
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HB 69

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**The complete exhibit is located with the minutes are at the Montana Historical Society Archives  
225 North Roberts  
Helena, MT 59620-1202  
(406) 444-4775**





**Report Criteria For 132 Waterbodies**

County	Watershed	Stream	Designated Use	Use Support	Probable Cause	Probable Source	Priority	On 303d List
						Abandoned mining		

**Query Summary For Waterbodies**

Segment Name	Waterbody #	Water Type	Size	Units	On 303d List
Thompson Creek	MT39F001_010	River	35.9	Miles	Yes
Chicago Gulch	MT40B002_020	River	3.1	Miles	Yes
Collar Gulch	MT40B002_030	River	6.1	Miles	Yes
Missouri River	MT40E001_010	River	49.8	Miles	Yes
Montana Gulch	MT40E002_010	River	2	Miles	Yes
Arnells Creek	MT40E002_022	River	13.4	Miles	Yes
Alder Gulch	MT40E002_050	River	3	Miles	Yes
Ruby Creek	MT40E002_060	River	4.2	Miles	Yes
Ruby Gulch	MT40E002_070	River	2.8	Miles	Yes
Fort Peck Reservoir	MT40E004_010	Freshwater Lake	245000	Acre	Yes
King Creek	MT40I001_040	River	0.7	Miles	Yes
Milk River	MT40O001_010	River	135.9	Miles	Yes
Red Rock River	MT41A001_010	River	48.6	Miles	Yes
Horse Prairie Creek	MT41A003_090	River	41.4	Miles	Yes
Beaverhead River	MT41B001_010	River	11.8	Miles	Yes
Ruby River	MT41C001_010	River	47.9	Miles	Yes
Ruby River	MT41C001_020	River	37.9	Miles	Yes
Mill Creek	MT41C002_020	River	19.6	Miles	Yes
Alder Gulch	MT41C002_040	River	18.8	Miles	Yes
Big Hole River	MT41D001_010	River	51.4	Miles	Yes
Big Hole River	MT41D001_020	River	43.8	Miles	Yes
Trapper Creek	MT41D002_010	River	17.4	Miles	Yes
Wickiup Creek	MT41D002_120	River	4.1	Miles	Yes
Rochester Creek	MT41D002_160	River	15.7	Miles	Yes
Jerry Creek	MT41D003_020	River	12.3	Miles	Yes
French Creek	MT41D003_050	River	9.4	Miles	Yes
California Creek	MT41D003_070	River	7.9	Miles	Yes
Oregon Creek	MT41D003_080	River	1.8	Miles	Yes
Mussigbrod Creek	MT41D004_020	River	12.7	Miles	Yes
Johnson Creek	MT41D004_030	River	13.9	Miles	Yes
Steel Creek	MT41D004_190	River	15.3	Miles	Yes
Boulder River	MT41E001_010	River	22.2	Miles	Yes
Boulder River	MT41E001_021	River	9.5	Miles	Yes
Boulder River	MT41E001_022	River	32.9	Miles	Yes
Boulder River	MT41E001_030	River	12.7	Miles	Yes
Uncle Sam Gulch	MT41E002_010	River	2.6	Miles	Yes
Cataract Creek	MT41E002_020	River	12.2	Miles	Yes
Basin Creek	MT41E002_030	River	15.5	Miles	Yes

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High Ore Creek	MT41E002_040	River	6.6	Miles	Yes
Lowland Creek	MT41E002_050	River	13.6	Miles	Yes
Elkhorn Creek	MT41E002_061	River	8	Miles	Yes
Elkhorn Creek	MT41E002_062	River	4.2	Miles	Yes
Bison Creek	MT41E002_070	River	23.1	Miles	Yes
Little Boulder River	MT41E002_080	River	3.5	Miles	Yes
Muskrat Creek	MT41E002_100	River	12.7	Miles	Yes
Big Limber Gulch	MT41E002_140	River	2.4	Miles	Yes
Madison River	MT41F001_010	River	45.8	Miles	Yes
Hot Springs Creek	MT41F002_030	River	15.2	Miles	Yes
South Meadow Creek	MT41F004_070	River	11.1	Miles	Yes
Moore Creek	MT41F004_130	River	15.2	Miles	Yes
Ennis Lake	MT41F005_030	Freshwater Lake	3780.8	Acre	Yes
Jefferson River	MT41G001_010	River	83.6	Miles	Yes
North Willow Creek	MT41G002_050	River	10.8	Miles	Yes
South Boulder River	MT41G002_060	River	21.8	Miles	Yes
Willow Creek	MT41G002_080	River	17.6	Miles	Yes
Fish Creek	MT41G002_100	River	26.6	Miles	Yes
Gallatin River	MT41H001_010	River	50.5	Miles	Yes
Missouri River	MT41I001_012	River	24.4	Miles	Yes
Beaver Creek	MT41I002_030	River	14.4	Miles	Yes
Confederate Gulch	MT41I002_041	River	9.8	Miles	Yes
Confederate Gulch	MT41I002_042	River	5.1	Miles	Yes
Crow Creek	MT41I002_060	River	7.9	Miles	Yes
Indian Creek	MT41I002_100	River	7.9	Miles	Yes
Wilson Creek	MT41I002_140	River	3.3	Miles	Yes
East Fork Indian Creek	MT41I002_170	River	4.7	Miles	Yes
Canyon Ferry Reservoir	MT41I003_010	Freshwater Lake	35180	Acre	Yes
Falls Gulch	MT41I005_030	River	3.3	Miles	Yes
Virginia Creek	MT41I005_040	River	8.2	Miles	Yes
Prickly Pear Creek	MT41I006_010	River	4.1	Miles	Yes
Prickly Pear Creek	MT41I006_020	River	9.1	Miles	Yes
Prickly Pear Creek	MT41I006_030	River	2.2	Miles	Yes
Prickly Pear Creek	MT41I006_040	River	8.9	Miles	Yes
Prickly Pear Creek	MT41I006_050	River	7	Miles	Yes
Prickly Pear Creek	MT41I006_060	River	8.7	Miles	Yes
Spring Creek	MT41I006_080	River	1.7	Miles	Yes
Middle Fork Warm Springs Creek	MT41I006_100	River	2.7	Miles	Yes
Warm Springs Creek	MT41I006_110	River	3	Miles	Yes
Clancy Creek	MT41I006_120	River	11.6	Miles	Yes
Lump Gulch	MT41I006_130	River	14.5	Miles	Yes
Tenmile Creek	MT41I006_141	River	6	Miles	Yes
Tenmile Creek	MT41I006_142	River	7.7	Miles	Yes
Tenmile Creek	MT41I006_143	River	15.9	Miles	Yes
Granite Creek	MT41I006_170	River	1.6	Miles	Yes
Lake Helena	MT41I007_010	Freshwater Lake	1600	Acre	Yes
Holter Lake	MT41I007_020	Freshwater Lake	5500	Acre	Yes
Missouri River	MT41Q001_013	River	10.2	Miles	Yes
Number Five Coulee	MT41Q002_030	River	15.1	Miles	Yes
Sand Coulee Creek	MT41Q002_040	River	17.1	Miles	Yes
Sand Coulee	MT41Q002_060	River	5.3	Miles	Yes

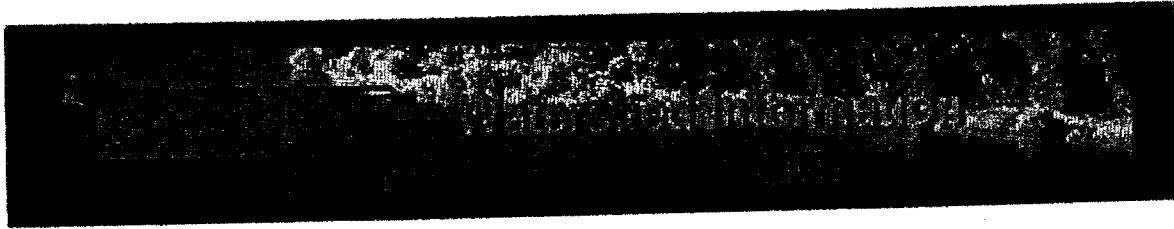
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Carpenter Creek	MT41U002_010	River	6	Miles	Yes
Soda Butte Creek	MT43B002_031	River	4.2	Miles	Yes
Stillwater River	MT43C001_010	River	20.7	Miles	Yes
Daisy Creek	MT43C002_140	River	1.9	Miles	Yes
Clarks Fork Yellowstone River	MT43D001_020	River	4.9	Miles	Yes
Fisher Creek	MT43D002_110	River	3.6	Miles	Yes
Snowshoe Creek	MT76D002_040	River	3.6	Miles	Yes
Big Cherry Creek	MT76D002_050	River	12.9	Miles	Yes
Libby Creek	MT76D002_061	River	12	Miles	Yes
Rock Creek Mainstem	MT76E002_010	River	51.9	Miles	Yes
Flint Creek	MT76E003_011	River	28	Miles	Yes
Flint Creek	MT76E003_012	River	15.7	Miles	Yes
Douglas Creek	MT76E003_020	River	6.4	Miles	Yes
North Fork Douglas Creek	MT76E003_030	River	3.1	Miles	Yes
Boulder Creek	MT76E003_060	River	13.8	Miles	Yes
Douglas Creek	MT76E003_100	River	5.1	Miles	Yes
Londonderry Adit	MT76E003_120	River	2.3	Miles	Yes
Wallace Creek	MT76E004_010	River	3.8	Miles	Yes
Cramer Creek	MT76E004_020	River	11	Miles	Yes
Blackfoot River	MT76F001_010	River	16.4	Miles	Yes
Blackfoot River	MT76F001_033	River	21.9	Miles	Yes
Poorman Creek	MT76F002_030	River	14	Miles	Yes
Washington Creek	MT76F003_071	River	5.8	Miles	Yes
Washington Creek	MT76F003_072	River	4.3	Miles	Yes
Union Creek	MT76F006_010	River	19.4	Miles	Yes
Cable Creek	MT76G002_030	River	3.2	Miles	Yes
Little Blackfoot River	MT76G004_010	River	26.2	Miles	Yes
Little Blackfoot River	MT76G004_020	River	21.6	Miles	Yes
Telegraph Creek	MT76G004_051	River	4.9	Miles	Yes
Telegraph Creek	MT76G004_052	River	2.4	Miles	Yes
Dog Creek	MT76G004_071	River	4.2	Miles	Yes
Carpenter Creek	MT76G004_091	River	3.2	Miles	Yes
Carpenter Creek	MT76G004_092	River	4.8	Miles	Yes
Woodson Gulch	MT76G004_100	River	0.8	Miles	Yes
Dunkleberg Creek	MT76G005_072	River	4.7	Miles	Yes
Gold Creek	MT76G005_091	River	8	Miles	Yes
Ontario Mine Wetland	MT76G006_010	Freshwater Lake	20	Acre	Yes
Hughes Creek	MT76H003_040	River	17.6	Miles	Yes
Overwhich Creek	MT76H003_050	River	19.1	Miles	Yes
Ninemile Creek	MT76M004_010	River	25.5	Miles	Yes
McCormick Creek	MT76M004_031	River	1.9	Miles	Yes
Kennedy Creek	MT76M004_070	River	6.2	Miles	Yes
Clark Fork River	MT76N001_010	River	58.9	Miles	Yes

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**Report Criteria For 58 Waterbodies**

County	Watershed	Stream	Designated Use	Use Support	Probable Cause	Probable Source	Priority	On 303d List
						Acid Mine Drainage		

**Query Summary For Waterbodies**

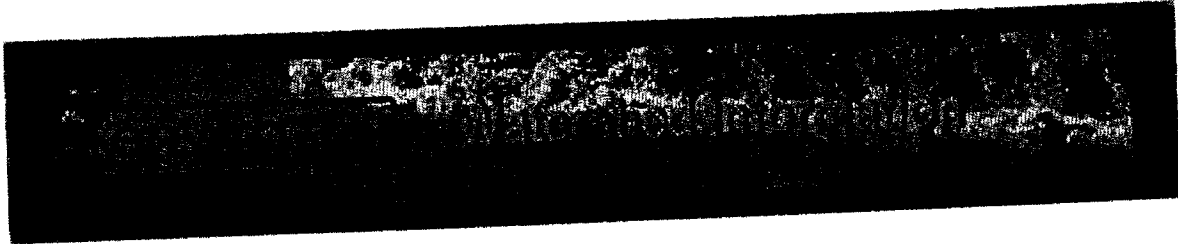
<u>Segment Name</u>	<u>Waterbody #</u>	<u>Water Type</u>	<u>Size</u>	<u>Units</u>	<u>On 303d List</u>
Chicago Gulch	MT40B002_020	River	3.1	Miles	Yes
Collar Gulch	MT40B002_030	River	6.1	Miles	Yes
Montana Gulch	MT40E002_010	River	2	Miles	Yes
Alder Gulch	MT40E002_050	River	3	Miles	Yes
Ruby River	MT41C001_010	River	47.9	Miles	Yes
Ruby River	MT41C001_020	River	37.9	Miles	Yes
Mill Creek	MT41C002_020	River	19.6	Miles	Yes
Alder Gulch	MT41C002_040	River	18.8	Miles	Yes
Big Hole River	MT41D001_010	River	51.4	Miles	Yes
Big Hole River	MT41D001_020	River	43.8	Miles	Yes
Trapper Creek	MT41D002_010	River	17.4	Miles	Yes
Jerry Creek	MT41D003_020	River	12.3	Miles	Yes
French Creek	MT41D003_050	River	9.4	Miles	Yes
Oregon Creek	MT41D003_080	River	1.8	Miles	Yes
Mussigbrod Creek	MT41D004_020	River	12.7	Miles	Yes
Johnson Creek	MT41D004_030	River	13.9	Miles	Yes
Steel Creek	MT41D004_190	River	15.3	Miles	Yes
Boulder River	MT41E001_010	River	22.2	Miles	Yes
Boulder River	MT41E001_021	River	9.5	Miles	Yes
Boulder River	MT41E001_022	River	32.9	Miles	Yes
Boulder River	MT41E001_030	River	12.7	Miles	Yes
Uncle Sam Gulch	MT41E002_010	River	2.6	Miles	Yes
Cataract Creek	MT41E002_020	River	12.2	Miles	Yes
Basin Creek	MT41E002_030	River	15.5	Miles	Yes
High Ore Creek	MT41E002_040	River	6.6	Miles	Yes
Elkhorn Creek	MT41E002_061	River	8	Miles	Yes
Elkhorn Creek	MT41E002_062	River	4.2	Miles	Yes
Big Limber Gulch	MT41E002_140	River	2.4	Miles	Yes
Hot Springs Creek	MT41F002_030	River	15.2	Miles	Yes
Moore Creek	MT41F004_130	River	15.2	Miles	Yes
Ennis Lake	MT41F005_030	Freshwater Lake	3780.8	Acre	Yes
South Boulder River	MT41G002_060	River	21.8	Miles	Yes
Willow Creek	MT41G002_080	River	17.6	Miles	Yes
Fish Creek	MT41G002_100	River	26.6	Miles	Yes
Indian Creek	MT41I002_100	River	7.9	Miles	Yes
East Fork Indian Creek	MT41I002_170	River	4.7	Miles	Yes
Canyon Ferry Reservoir	MT41I003_010	Freshwater Lake	35180	Acre	Yes
Prickly Pear Creek	MT41I006_010	River	4.1	Miles	Yes

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Prickly Pear Creek	MT41I006_020	River	9.1	Miles	Yes
Prickly Pear Creek	MT41I006_030	River	2.2	Miles	Yes
Prickly Pear Creek	MT41I006_040	River	8.9	Miles	Yes
Prickly Pear Creek	MT41I006_050	River	7	Miles	Yes
Prickly Pear Creek	MT41I006_060	River	8.7	Miles	Yes
Spring Creek	MT41I006_080	River	1.7	Miles	Yes
Clancy Creek	MT41I006_120	River	11.6	Miles	Yes
Lump Gulch	MT41I006_130	River	14.5	Miles	Yes
Tenmile Creek	MT41I006_141	River	6	Miles	Yes
Tenmile Creek	MT41I006_142	River	7.7	Miles	Yes
Tenmile Creek	MT41I006_143	River	15.9	Miles	Yes
Granite Creek	MT41I006_170	River	1.6	Miles	Yes
Lake Helena	MT41I007_010	Freshwater Lake	1600	Acre	Yes
Cottonwood Creek	MT41Q002_020	River	3.9	Miles	Yes
Belt Creek	MT41U001_010	River	88.6	Miles	Yes
Carpenter Creek	MT41U002_010	River	6	Miles	Yes
Galena Creek	MT41U002_020	River	3.3	Miles	Yes
Belt Creek, Dry Fork	MT41U002_030	River	18.1	Miles	Yes
Fisher Creek	MT43D002_110	River	3.6	Miles	Yes
Blackfoot River	MT76F001_010	River	16.4	Miles	Yes

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**Report Criteria For 11 Waterbodies**

County	Watershed	Stream	Designated Use	Use Support	Probable Cause	Probable Source	Priority	On 303d List
						Dredge Mining		

**Query Summary For Waterbodies**

<u>Segment Name</u>	<u>Waterbody #</u>	<u>Water Type</u>	<u>Size</u>	<u>Units</u>	<u>On 303d List</u>
Oregon Creek	MT41D003_080	River	1.8	Miles	Yes
Trail Creek	MT41D004_070	River	11.5	Miles	Yes
Ruby Creek	MT41D004_100	River	13.8	Miles	Yes
Lowland Creek	MT41E002_050	River	13.6	Miles	Yes
Little Boulder River	MT41E002_080	River	3.5	Miles	Yes
Confederate Gulch	MT41I002_041	River	9.8	Miles	Yes
Confederate Gulch	MT41I002_042	River	5.1	Miles	Yes
Indian Creek	MT41I002_100	River	7.9	Miles	Yes
Silver Creek	MT41I006_150	River	21.6	Miles	Yes
Jefferson Creek	MT76F003_022	River	3	Miles	Yes
Washington Creek	MT76F003_071	River	5.8	Miles	Yes

SENATE NATURAL RESOURCES

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**Report Criteria For 20 Waterbodies**

County	Watershed	Stream	Designated Use	Use Support	Probable Cause	Probable Source	Priority	On 303d List
						Mill Tailings		

**Query Summary For Waterbodies**

Segment Name	Waterbody #	Water Type	Size	Units	On 303d List
Boulder River	MT41E001_021	River	9.5	Miles	Yes
Boulder River	MT41E001_030	River	12.7	Miles	Yes
Fool Hen Creek	MT41I005_060	River	1.7	Miles	Yes
Corbin Creek	MT41I006_090	River	2.5	Miles	Yes
Silver Creek	MT41I006_150	River	21.6	Miles	Yes
Clark Fork River	MT76E001_010	River	53	Miles	Yes
Fred Burr Creek	MT76E003_040	River	10.1	Miles	Yes
South Fork Lower Willow Creek	MT76E003_050	River	12.5	Miles	Yes
Londonderry Adit	MT76E003_120	River	2.3	Miles	Yes
Beartrap Creek	MT76F002_040	River	0.5	Miles	Yes
Clark Fork River	MT76G001_010	River	25.2	Miles	Yes
Clark Fork River	MT76G001_030	River	13.6	Miles	Yes
Clark Fork River	MT76G001_040	River	23	Miles	Yes
Warm Springs Creek	MT76G002_012	River	14.5	Miles	Yes
Mill Creek	MT76G002_052	River	8.7	Miles	Yes
Willow Creek	MT76G002_062	River	7.4	Miles	Yes
Mill Willow Bypass	MT76G002_120	River	4.2	Miles	Yes
Clark Fork River	MT76M001_010	River	60	Miles	Yes
Clark Fork River	MT76M001_020	River	52.6	Miles	Yes
Clark Fork River	MT76M001_030	River	6.3	Miles	Yes

SENATE NATURAL RESOURCES

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**Report Criteria For 28 Waterbodies**

County	Watershed	Stream	Designated Use	Use Support	Probable Cause	Probable Source	Priority	On 303d List
						Mine Tailings		

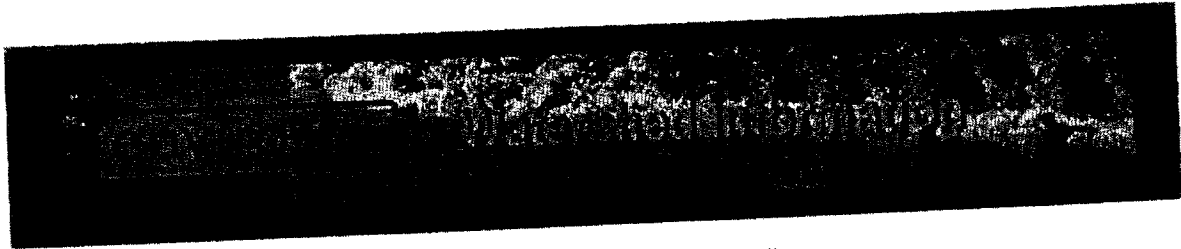
**Query Summary For Waterbodies**

Segment Name	Waterbody #	Water Type	Size	Units	On 303d List
Alder Gulch	MT40E002_050	River	3	Miles	Yes
King Creek	MT40I001_040	River	0.7	Miles	Yes
Grasshopper Creek	MT41B002_010	River	47.7	Miles	Yes
Trapper Creek	MT41D002_010	River	17.4	Miles	Yes
Oregon Creek	MT41D003_080	River	1.8	Miles	Yes
Boulder River	MT41E001_021	River	9.5	Miles	Yes
Cataract Creek	MT41E002_020	River	12.2	Miles	Yes
Basin Creek	MT41E002_030	River	15.5	Miles	Yes
High Ore Creek	MT41E002_040	River	6.6	Miles	Yes
South Boulder River	MT41G002_060	River	21.8	Miles	Yes
Hellgate Gulch	MT41I002_090	River	11.5	Miles	Yes
Indian Creek	MT41I002_100	River	7.9	Miles	Yes
Prickly Pear Creek	MT41I006_010	River	4.1	Miles	Yes
Prickly Pear Creek	MT41I006_050	River	7	Miles	Yes
Golconda Creek	MT41I006_070	River	3.7	Miles	Yes
Spring Creek	MT41I006_080	River	1.7	Miles	Yes
Corbin Creek	MT41I006_090	River	2.5	Miles	Yes
Middle Fork Warm Springs Creek	MT41I006_100	River	2.7	Miles	Yes
Carpenter Creek	MT41U002_010	River	6	Miles	Yes
Galena Creek	MT41U002_020	River	3.3	Miles	Yes
Belt Creek, Dry Fork	MT41U002_030	River	18.1	Miles	Yes
Stanley Creek	MT76D002_010	River	3.5	Miles	Yes
Big Cherry Creek	MT76D002_050	River	12.9	Miles	Yes
Lake Creek	MT76D002_070	River	18.2	Miles	Yes
Clark Fork River	MT76E001_010	River	53	Miles	Yes
Dunkleberg Creek	MT76G005_071	River	3.6	Miles	Yes
Gold Creek	MT76G005_091	River	8	Miles	Yes
Prospect Creek	MT76N003_020	River	18.9	Miles	Yes

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**Report Criteria For 16 Waterbodies**

County	Watershed	Stream	Designated Use	Use Support	Probable Cause	Probable Source	Priority	On 303d List
						Placer Mining		

**Query Summary For Waterbodies**

Segment Name	Waterbody #	Water Type	Size	Units	On 303d List
French Creek	MT41B002_100	River	6.5	Miles	Yes
Alder Gulch	MT41C002_040	River	18.8	Miles	Yes
Wickiup Creek	MT41D002_120	River	4.1	Miles	Yes
California Creek	MT41D003_070	River	7.9	Miles	Yes
Crow Creek	MT41I002_060	River	7.9	Miles	Yes
Prickly Pear Creek	MT41I006_050	River	7	Miles	Yes
Prickly Pear Creek	MT41I006_060	River	8.7	Miles	Yes
Holter Lake	MT41I007_020	Freshwater Lake	5500	Acre	Yes
Sheep Creek	MT41J002_030	River	36.9	Miles	Yes
Six Mile Cr	MT43B004_102	River	3.6	Miles	Yes
Libby Creek	MT76D002_061	River	12	Miles	Yes
Princeton Gulch	MT76E003_090	River	3.9	Miles	Yes
Nevada Creek	MT76F003_011	River	18.3	Miles	Yes
Elk Creek	MT76F006_031	River	8.4	Miles	Yes
Woodson Gulch	MT76G004_100	River	0.8	Miles	Yes
Hughes Creek	MT76H003_040	River	17.6	Miles	Yes

SENATE NATURAL RESOURCES

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Exhibit: 8

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# INDEPENDENT RECORD

HELENA, MONTANA ■ FIFTY CENTS

SENATE NATURAL RESOURCES

EXHIBIT NO.

9 (6 PAGES)

DATE

04/03/01

BILL NO.

HB69

Wednesday, December 6, 2000



Opinion Desk: 447-4085  
irstaff@helenair.com

## Opinion

INI

# Clean-up bond is way short

**U**nder fire from both sides, the State of Montana took a big step this week when it demanded that an insurance company forfeit Canyon Resources Corporation's \$1.9 million bond to help pay for reclamation of the firm's closed CR Kendall gold mine near Lewistown.

**An ir View**

Environmentalists think the Department of Environmental Quality has been too lax with the company and should have taken action earlier. Canyon Ferry, meanwhile, says it is at work on cleaning up the site, albeit at a slower pace than the state wants.

It plans to fight the DEQ in court.

But if that sounds like a mess, consider this: The bond will cover less than one-seventh of the full \$14.2 million the state now says it will cost to reclaim the mine.

DEQ Director Mark Simonich said the state is working to ensure the taxpayers aren't stuck with the bill, but he conceded that it was unlikely Canyon Resources would end up paying the full amount. Canyon Resources, based in Golden, Colo., is the company whose plans for a huge gold mine near Lincoln were shut down by passage in 1998 of a ballot measure banning new gold mines using the cyanide-heap leaching technique.

Simonich said his department will ask

the Legislature to authorize the state to issue bonds to cover reclamation costs the company can't pay. The bonds would be repaid with revenue from the state's resource indemnity tax.

Reclamation bonding has been around for a long time. But its purpose has been to make sure that mine sites are totally cleaned up in the event a mining company for any reason can't reclaim the land itself. We don't recall any talk about 14 cents on the dollar.

When the DEQ asks the Legislature to approve reclamation funding, we hope it also will suggest ways to strengthen Montana's mine-reclamation system so that this sort of fiasco doesn't happen again.

# GREAT FALLS TRIBUNE

Wednesday, November 3, 1999

## Adequate mine reclamation won't happen by itself

It's a rule of the woods every Scout is taught from an early age: Leave the land in better condition than you found it so future visitors can have an experience at least comparable to yours.

This simple ethical standard should apply to all users of public land, from those who go lightly upon the land to those who alter it forever.

For the former, it's easy: Pack out everything you pack in.

For the latter, it's more complicated and expensive. But the same rule should apply — and thanks to reclamation laws, it does, more or less.

If you want to build a mine that involves taking the top off of a mountain, crushing the rocks, building roads, diverting water from a river and making millions of dollars, then some of those millions must go toward putting

the land and water back as close as possible to the way you found them.

Historically in Montana, a big, fat fly has done a backstroke in that ointment.

The problem is that the state has tended not to require comprehensive cleanup plans when granting permits to mines.

Because of that, the reclamation bonds — mandatory insurance policies guaranteeing cleanup if companies evaporate — have tended to be inadequate.

When the mining corporations do evaporate — as they sometimes seem to do — the public gets a double whammy: trashed public land and a whopping tax bill to pay for cleaning it up.

This is one of those "complicated issues" on which there are more elaborate explanations and proud success claims than there



Tribune photo by Mike Dennison

The Zortman-Landusky gold mine sits unreclaimed in the Little Rockies southwest of Malta.

are people involved.

Scientists are studying it, companies are pointing to how much money they've spent on it (the phrase "millions of dollars" does sound impressive to people who will never see a million bucks), and politicians are demagoguing

it.

But for the public on the ground, the view seems never to change. The streams are still dried up or poisoned, the rock piles still look a lot like rock piles and, often, the companies who did the damage are long gone.

Montana has tried to improve its performance on requiring adequate bonds, and compared with the "old days," performance has improved.

But one has to look no further than the closed Zortman-Landusky mine in northcentral Montana to see that there's still a long

way to go. The mining company there, Pegasus, is in bankruptcy reorganization, and the controlling judge in Nevada won't make what's left of the company pay more for reclamation.

Richard Parks, a member of the Northern Plains Resource Council, which has long advocated tougher reclamation laws, put it well: "The problem is we have set things up to permit mines, not to protect the resources."

Protecting the resources involves requiring comprehensive cleanup plans and adequate bonding before the first shovel is turned, as well as tough monitoring and enforcement of non-degradation and reclamation laws during and after mining.

The state of Montana must gear up to make mining companies be good Scouts. They won't do it on their own.

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HELENA, MONTANA 59624

# Billings Gazette

The Source.

Thursday, December 7, 2000



## Gazette opinion

# We all pay for messy practices of mining

**M**INING CAN be a messy business. Overtaken earth is piled sky-high while noisy trucks and loaders shoulder the burden of hauling precious minerals or fuel to rail cars or processing mills. Diesel fumes fill the air as huge trenches and pits are dug. In some cases, water is mixed with cyanide so that gold can be leached from the ore.

The workers who make their living extracting coal, precious minerals or metals will tell you it can be hard, sometimes dangerous, work. They would be the first to admit that pulling minerals out of a mountain is not a tidy undertaking.

It's messy.

But mining can turn from messy to ugly in a hurry. Montana has been victim to the rape-and-run mentality before. The dredge piles can still be seen along creek beds stripped bare in the late 1800s near Virginia City. And hard feelings still remain for many folks who saw what greed did to the natural and social landscapes when the copper barons left Butte to die. Boom-and-bust industries provide only temporary jobs and leave a damaged landscape in their wakes.

It also turns ugly when an owner abandons its responsibility.

CR Kendall, a subsidiary of Canyon Resources of Golden, Colo., abandoned its responsibility to clean up its gold mine near Lewistown five years ago.

The mine's owners posted a \$1.9 million bond in 1989 for future reclamation of the project. The company has completed about two-thirds of the work. The state now says the final cleanup costs will total \$14 million. Cleaning up the leach pad and contaminated water at the site is important, as it will ensure that aquifers in the cattle-rich region are not irreparably damaged.

On Monday, the state demanded that the insurance company holding the bond turn it over so some of the costs can be paid.

On Tuesday, the Canyon Resources president said his company wouldn't pay up, at least not any time soon.

"We certainly will not agree to their request," company president Richard DeVoto said. He said the company can perform the reclamation for close to \$2 million, not \$14 million, as the state estimates.

If that's the case, why hasn't the work been done by now?

Meanwhile, expect things to get uglier still for Montana taxpayers, who will now shoulder the cost of this cleanup.

"Canyon Resources has been dragging its heels on this reclamation for a long time, and the downstream landowners have been paying the price both in water quality and water quantity," said Bonnie Gestring of the Montana Environmental Information Center.

Needless to say, this won't be resolved before Christmas. It is a Racicot environmental legacy that Gov.-elect Judy Martz now carries with her into her term.

We encourage Martz to do what is necessary to ensure that Canyon Resources pays its fair share of the cleanup cost. We also encourage the new administration to develop a system in which decisions allowing bonds of this nature are based upon sound science and economics that cover all the bases.

Responsible business leaders will do what's right to do business in Montana. For example, some Colstrip projects were an eyesore while coal was being mined, but reclamation performed later helped bring a near-natural state to the landscape.

Other companies, like Canyon, apparently want to shirk their responsibilities. That's why performance bonds and reclamation bonds exist.

When things go from messy to ugly next time, we must be ready.

Bozeman, Montana

Bozeman  
Daily

# Chronicle

Sunday, October 1, 2000

## OUR OPINION

### Plug holes in mine bonding law

**W**ith a state-ordered auction on Sept. 21, the Pony mine and mill faded into history, leaving a scarred hillside and a taxpayer debt for its cleanup in its wake.

A state official overseeing the cleanup of the abandoned project grimly observed: "Mining is done in Montana."

That's a pretty grim assessment, but given the history of the Pony mine, there are more than a few Montanans that would welcome the news.

"In all the environmental work I'd ever done," an attorney for the controversial mine's opponents said, the opponents "are probably the best example of people who raised a concern about an environmental problem and were right on the mark."

From its conception, the mine divided the people of Pony. Some wanted the good-paying jobs the mine promised; others were appalled that the cyanide-heap-leach operation would be perched right above the townsite — and right above the very water they drank.

Opponents fought the issuing of state permits for the operation, but failed. Their worst fears came true when cyanide showed up in well water. The seediness of the project was compounded when operators raced to produce a token ingot of gold just to beat a state law requiring new mines to be bonded sufficiently to cover reclamation costs.

The mine folded a little more than a year later. Proceeds from the auction of abandoned equipment cover less than 16 percent of what state and local taxpayers are out in unpaid taxes and cleanup costs — so far.

And the Pony mine is not an isolated case. A state budget deficit projected recently includes nearly \$1 million for cleanup costs for mining near Zortman — another failed strip mine that won't be paying its reclamation bills.

Mining is not done in Montana. Underground mines in the Stillwater and Boulder river area that yield high-grade ore also provide good jobs and have earned accolades for the environmental integrity of their operations.

The wholesale, permanently scarring strip mining that yields low-grade ore and relies on risky cyanide-heap-leach processing is marginal mining at best. Montanans spoke out against it with the approval of initiative 137, a measure that banned its use in the state.

If these — or any — mines are to be permitted in Montana, they *must*, with a capital M, be bonded at least sufficiently to cover worst-case reclamation costs with some to spare.

State lawmakers need to examine the record of mine reclamation requirements and toughen them up where needed.

The people of Montana will always be divided over the appropriateness of mining — particularly surface mining — and the potentially destructive and lasting effects it has on the countryside.

But we should all be able to agree that any mining should be sufficiently bonded to cover cleanup costs without burdening taxpayers. And we should be able to count on our elected representatives to see that it gets done.

## MISSOULIAN EDITORIAL

# Pegasus bond rebuff offers Montana a lesson

**M**ontana may be a hard and bitter lesson from the school of hard knocks. A federal bankruptcy court late this week rejected state officials' request for Pegasus Gold Corp. to post an additional \$8.5 million worth of mine-reclamation bonds. Get the idea? The rest of Pegasus' bankruptcy proceedings are under way, said.

The state Department of Environmental Quality wants the additional bonds posted to ensure the Zortman and other mine sites are properly reclaimed even as Pegasus seeks bankruptcy.

State law requires miners to reclaim mine sites once they're finished with them. Mines typically do

**SUMMARY:** By the time a mining company reaches bankruptcy court, it's a bit late for state officials to worry about adequate insurance for reclamation.

the reclamation work themselves but are required to post bonds as insurance - just in case. Pegasus isn't the first mining company to play out before the reclamation work's done.

Unfortunately, the time to secure sufficient

insurance is before the wreck, not after. Pegasus has posted bonds totaling \$30 million to cover reclamation at its three Montana mines. But DEQ fears the actual costs will run much higher.

Guess who'll pay the difference if the bankruptcy proceedings leave nothing to spare for Montana and its reclamation problems?

Mining critics have long criticized state regulators for being overly optimistic about mine problems and reclamation costs. The problems and costs often loom larger once the digging starts. Perhaps state officials fear a more aggressive approach to safeguarding the public's reclamation interests would be interpreted as

adversarial to mine development.

But nothing gives the mining industry a bigger black eye than a miner who fails to live up to his obligations. The industry has struggled for decades in an attempt to escape its irresponsible past. Should DEQ fears regarding the insufficiency of Pegasus reclamation bonds prove true, the next miner seeking to develop a mine - not just Pegasus - will pay a price in the form of even greater public opposition.

The lesson to be learned from this mess is that, if the state's going to err when it comes to setting reclamation bond requirements, it ought to err on the conservative side.

TRIBUNE/EDITORIAL

# Canyon gives state another lesson in gold mining

We wish we were surprised that the Colorado company that mined gold north of Lewistown doesn't want the state to use the bond it posted to help clean up the mess.

We also wish we didn't expect the company to threaten suit over the issue.

But Canyon Resources has done just that. It's become standard operating procedure for the company

that operated the Kendall Mine until 1995 and wanted to create a much larger, but similar, mine in the headwaters of the Blackfoot River east of Lincoln.

The state Department of Environmental Quality, not exactly a tree-hugger organization, last week asked Canyon's insurance company to cash the \$1.9 million reclamation bond to help with cleanup at Kendall.

"We just got to the point where we said we've given the company a great deal of time and laid out the time frame within they should have acted," said Mark Simonich, director of DEQ. "And they haven't done it."

Earlier this year, the state upped its estimate of what it would cost to complete the job in the North Moccasins by about \$13.5 million. Canyon has protested

that, too, partly because it doesn't think it will cost that much.

More important, though, is that Canyon doesn't have the money. Not even close.

And that is a much bigger problem. It means the state is likely to wind up holding the bag, because neighboring landowners have run out of patience. They say their water supplies have been polluted or depleted

by the mine, and they're tired of waiting for Canyon to solve the problem. After all, they say, the mine's been closed for five years.

Simonich says the bond, posted (we thought) for just such a purpose, would cover some "dirt work" at the site, as well as the beginnings of a water treatment facility, but it won't be enough to finish the job.

To his credit, Simonich

acknowledges the agency should have moved more quickly on re-evaluating the bond before low gold prices drove the company to the brink of bankruptcy.

If there is a silver lining to this gold mine debacle, it may be that DEQ is preparing legislation for the upcoming session to alter unwieldy mine-bonding processes to avoid problems like this in the future.

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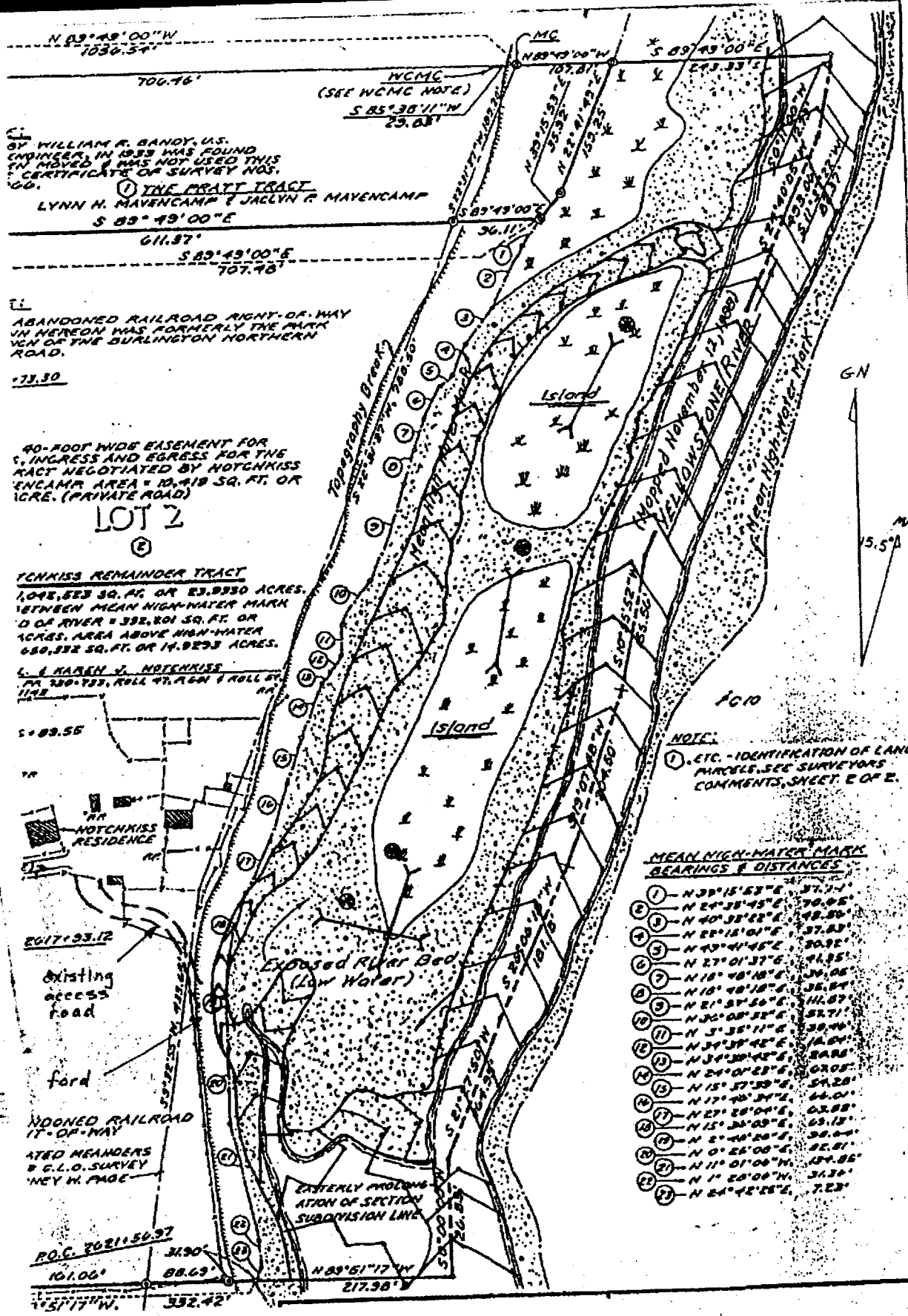


FIGURE 1 - Planimetric Map of Area of Exploration. Map shown is a portion of a subdivision plat map supplied by the landowner. The scale is approximately 1:1,200.

- active river channel on 4-6-98
- proposed exploration trench
- proposed settling/infiltration ("S/I") pit

April 3, 2001

Chairman Crismore and members of the Senate Natural Resources Committee;

I am writing to ask for your support of HB 69. My family ranches below the Kendall Mine near Lewistown. Mine activities at the Kendall mine have contaminated the spring on our property and significantly reduced the amount of water in the stream that runs through our ranch. The DEQ and DNRC have documented water quality violations and reduction in flows which affect my family and other families.

The biggest problem we can see to date is the lack of reclamation bonding on hard rock mines. Canyon Resource's Kendall Mine by DEQ calculations is \$12 Million short in bond money. We can sit around and cast blame or we can work to find a solution to this problem. DEQ is trying to find a solution. DEQ is asking for legislation to improve bonding requirements so that what has happened here at Kendall will not be repeated. At present bonding requirements are so low that it is financially easier for a company to forfeit its bond than reclaim its mine site. The Kendall site is a prime example. Greyhall, the previous mining operations at this site, declared bankruptcy and Kendall states they are in financial trouble.

As a legislator you know how hard it is to balance the budget and still keep the taxpayer happy. The shortfall at Kendall could cost each man, woman, and child in Montana \$12. Now add on top of that the costs at Zortman/Landusky and other mine sites. These costs are based on no further problems developing and water treatment for 100 years at Kendall and forever at Zortman/Landusky. I feel this is unacceptable. These companies should have to guarantee they clean up their mine sites.

I know the small miners will say they need to be exempt but they also cause serious problems. In the Judith Mountains near Lewistown, there is a mine known as the Golden Maple. The down-gradient landowner's cows got sick he didn't know why. The operators had abandoned the site and the cyanide was running down the creek. It cost the State a significant amount to clean up a less than 5 acre mine, not to mention the damage to a successful existing business.

Our family has already had to pay \$30,000 out of pocket to drill groundwater wells to provide our ranch with water. The longer the mine remains unreclaimed the more the damages there will be. I hope you will look at our problems and the cost to the taxpayers and support improvements in reclamation bonding at hard-rock mines.

Please feel free to contact us with your questions.

Sincerely

Stephanie and Alan Shammel  
23 Salt Creek Road  
Hilger, Montana 59451

406-538-8686

# Why should citizens have to clean up Kendall Mine?

By STEPHANIE SHAMMEL

I read with interest the guest opinion in the Jan. 22 Great Falls Tribune, written by Richard DeVoto, president of Canyon Resources, a Colorado based mining company.

My husband, children, and I ranch just north of Lewistown, below the Kendall Mine, an open-pit cyanide heap leach mine operated by Canyon Resources. Some of Mr. DeVoto's comments were fictitious, to say the least.

I decided to go to Canyon Resources' own Securities and Exchange filings. SEC filings are necessary for any publicly traded stock.

To start with, Mr. DeVoto states that the Kendall Mine operated from 1988 to 1998. Yet his own SEC filings state, "Mining and crushing of all remaining ore was completed in January of 1995." After the summer of 1995 the majority of the heavy equipment was removed and most of the employees were laid off.

Under Montana Law a mine must be reclaimed within two years of the completion of mining. This is where Mr. DeVoto's company is getting into trouble. Since that time very little reclamation has been done. In fact, in 1999 according to Canyon Resources' SEC filings, 8.8 acres of land were reclaimed. Reclamation costs were reported to be \$900,000. The cost of this reclamation would appear to be about \$100,000 per acre. No wonder the Department of Environmental Quality is getting nervous.

The largest and most expensive part of the reclamation is the heap leach pad. To my knowledge very little has been done to reclaim this very hazardous area.

Conrad Parrish past mine manager at CR Kendall, in a July 7, 1999, letter to DEQ, stated: "Water treatment at the toe of the heap is unavoidable." DEQ reclamation costs are based on at least 100 years of water treatment on this site. This is not a pleasant thought for down-gradi-

ent property owners.

Mr. DeVoto states that CR Kendall promptly reported water contamination problems. My husband and I spoke to CR Kendall officials in December 1995 because they hadn't done the required June sampling. The following April 1996 we were told our high quality spring was contaminated with heavy metals and nitrates at levels as high as 107 ppm.

Contaminated water was bad enough, but letting us use the water supply for over a year for our cattle and the problems we incurred because we didn't know it was contaminated is outrageous.

Mr. DeVoto says his company has an experimental bio-cell to treat contaminated water. This system is supposed to be much cheaper to operate. Yet, CR Kendall's own consulting company's report states the bio-cell doesn't work and even had to be shut down.

CR Kendall has gone to the DEQ on numerous occasions stating financial problems. The American Stock Exchange told the company if the stock was not valued at over a dollar they would be dropped from the listing. Canyon Resources had a reverse stock split 4 for 1 share to boost the stocks value. This week it was valued at 1-1/16 dollars. Yet according to Canyon's SEC filings, Mr. DeVoto has an annual salary of \$205,000.

DEQ personnel told me they wished they could get more reclamation groundwork done and less management wages. I think there are only about three employees on the mine site.

I was told by one of them it would take a contracted construction company two summers to accomplish the ground reclamation work that is needed at present.

I applaud DEQ trying to take action against this company.

Mr. DeVoto operates out of Colorado. He doesn't drink the contaminated water or pay Montana taxes. Canyon's SEC filings state it won't even pay any income taxes. DEQ has on numer-



Photos courtesy of Stephanie Shammel

Hilger-area rancher Alan Shammel stands in a well that was documented to have flowed year-round since 1887. It went dry after the CR Kendall Mine's pump-back system was activated. At night is the Shammels' reservoir in 1985 — a dry year. The reservoir is dry today, and it has been dry for about four years.



ous occasions ordered CR Kendall to begin reclamation and return clean water to the down-gradient landowners.

Yet every time DEQ tries to collect a bond or a fine, Mr. DeVoto and his company threaten and/or take us, the taxpayers of Montana, to court.

Past DEQ Director Marc Simonich's daughter took legislation to the Montana Girls State in Helena concerning improving the bonding requirements in Montana for these mines. Our Montana girls voted to send this

legislation on to the National Girls State.

They felt Montanans should be protected from these boom-and-bust companies. If our girls felt we needed stricter laws to protect Montana, maybe our legislators should sit up and take notice.

DEQ has presented new legislation to our Legislature in an attempt to fill in the holes in bonding requirements. Kendall and Zortman/Landusky are sadly lacking in reclamation bonds.

It appears we the taxpayers

will be picking up the costs. Cleanup at Kendall, by DEQ calculations, is about \$12 million short even if DEQ is able to cash the present bond. This is roughly \$12 for every man, woman and child in Montana.

Montana taxpayers shouldn't have to pay to clean up a mess made by an out-of-state corporation. I know my family could find better uses for this money.

Stephanie Shammel ranches with her husband and children at 23 Salt Creek Road, Hilger.

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SEARCHED NATIONAL RESOURCES  
EXHIBIT NO. 11 (PAGE 20F22)  
DATE 04/03/01  
FILE NO. HB 69

Proposed Amendments to HB 69  
presented to  
Montana Senate Natural Resources Committee  
April 3, 2001  
by Jon Metropoulos  
for Golden Sunlight Mine

A. **Sections 3 and 5: Non-issuance of exploration license or operating permit—merely punitive.**

1. Page 13

Line 6: Following "resulted in"  
Strike "either"

Following "the"  
Insert "forfeiture"

Following "~~forfeiture~~"  
Strike "receipt"

Following "of"  
Insert "a"

Line 7: Strike in entirety

Line 8: Insert: "unless that person meets the conditions described in 82-4-360;"

Line 11: Following ""82-4-305"

Insert: ", unless the department has certified that the area for which the bond should have been posted has been reclaimed by that person or reclaimed by the department and the person has reimbursed the department for the costs of the reclamation"

2. Page 16

Line 29: Following "resulted in"  
Strike "either"

Following "the"  
Insert "forfeiture"

Following "~~forfeiture~~"

Strike "receipt"

Following "of"  
Insert "a"

Line 30: Strike in entirety

3. Page 17

Line 1: Insert: "unless that person meets the conditions described in 82-4-360;"

Line 4: Insert: ", unless the department has certified that the area for which the bond should have been posted has been reclaimed by that person or reclaimed by the department and the person has reimbursed the department for the costs of the reclamation"

**B. Section 6: Third-party contractor may assist in bond component calculation; procedure for selecting contractor; contingencies exactions prohibited.**

1. Page 18

Line 10: following "more"

Strike: "objective"

Insert: "third-party"

Line 11: following "and the"

Strike: "mine operator"

Insert: "applicant"

Line 11: following "by the"

Strike: "mine operator"

Insert: "applicant"

Line 15:

Insert new (3): "(3) To select a third-party contractor as authorized in (2) the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant."

Following new (3)

Insert new (4): "Bond calculations, whether for initial bonds or subsequent bond reviews and adjustments, shall not include amounts for any occurrence or contingency that is not a reasonably foreseeable activity included in the bond calculation."

Renumber subsequent sections.

**C. Section 6: Submission of disputed bond amount prior to hearing unconstitutional and unfair.**

1. Page 19

Line 8: Following "determination."

Insert: "To the extent the licensee or permittee prevails in the hearing, the cost, or portion thereof as determined by the hearing examiner, of the premiums paid for the bond amount successfully challenged plus interest shall be reimbursed to the licensee or permittee."

**D. Section 8: Procedure for written findings exists in 82-4-337(3).**

1. Page 23:

Line 2: Following "WRITTEN FINDING"

Insert: ", PURSUANT TO THE PROCEDURES PROVIDED IN 82-4-337(3),"

**E. Section 9: Treatment of negotiated settlement same as a forfeiture merely punitive and promotes needless litigation.**

1. Page 24

Lines 4 and 5,: Following: "prohibited", line 4

Insert: "if bond forfeited - exception. (1) Except as provided in subsection (2), a"

Line 5: Following "a"

Strike: "A"

Lines 7, 8 and 9: Following "part", line 7

Strike: remaining text in line 7, all of line 8, all of line 9

Lines 10 - 15: Re-insert subsection (2)

Amendment to HB69

82-4-338 (1)(a)(ii) Water Quality Treatment Bond. When the operations plan or reclamation plan includes surface or groundwater treatment, or when field investigations or monitoring results identify surface or ground water degradation, the reclamation bond must include, or be increased to include, a special reclamation bond component with the following factors.

(i) The cost of construction of all facilities and structures/items necessary to meet state water quality standards including the nondegradation requirements of 75-5-303 and rules implementing those requirements.

(ii) The operating costs for all structures/items necessary for water quality treatment. These costs shall include, but not be limited to, labor, materials, disposal of wastes and by-products, maintenance, and insurance.

(iii) The bond shall include the full cost of new treatment facilities for the duration that treatment facilities are anticipated, adjusted for inflation at the current U.S. Department of Revenue rate. This amount shall include, but not be limited to, engineering and design, all aspects of construction, construction oversight, operations, maintenance, materials, labor, insurance, waste and by-product disposal, and disposal of the then-existing facilities and wastes.

This portion of the bond shall not be released until the water quality treatment facilities are no longer needed because the mine has met applicable water quality standards for a period of 2 years.

could be unforeseen circumstances that require additional bonding. HB 69 provides HB 69 that under those circumstances, the department can contract with an outside contractor to assist in calculating the bond.

Finally, our exploration and operating permit fees have not been changed in over 20 years, and do not begin to cover the costs of administration. We are requesting increases to help cover our costs, and to provide the department with funds to carry out otherwise unfunded reclamation and research projects.

The bill would also include bonding of load out facilities located outside the operating permit boundary and clarifies that a person may not conduct mining if money has been received and reclamation has been completed on the person's behalf.

As many of you know the department has experienced and continues to experience significant funding problems associated with bonding of metal mines. Therefore the department believes that the amendments to the Metal Mine Reclamation Act reflected in this bill strengthen the bonding provisions in order to protect the taxpayers of the state of Montana from having to fund the costs of mine cleanup from their tax dollars.



SENATE NATURAL RESOURCES

EXHIBIT NO. 15

DATE 04/03/01

BILL NO. HB 69

AMENDMENTS TO HOUSE BILL NO. 69  
(Third Reading Copy)

1. Page 22, line 27.  
Following: "order"  
Strike: "as provided in 82-4-338(7)"  
Insert: "by certified mail"

-End-

**Amendments to House Bill No. 69**

As passed by the House

Requested by the National Fire Insurance Company of Hartford

April 3, 2001

1. Page 19, line 3

**Strike:** "reasonable"**Insert:** "30 day"

2. Page 20, line 17

**Following:** "subsection (8)"**Insert:** "and for the actual cost of the surety's expenses in responding to the department's forfeiture demand"

3. Page 20

**Following:** line 24**Insert:** "(D) Any interest accrued on bond proceeds which is not required to abate the imminent danger determined under subsection (8)(A), shall be returned to the surety unless otherwise agreed to in writing by the surety."

4. Page 20

**Following:** line 24**Insert:** "(9) If a bond is terminated as a result of the action or inaction of a permittee or licensee, or is cancelled or otherwise terminated by the surety issuing the bond, and the permittee or licensee fails to post a new bond for the entire amount of the terminated bond within 30 days following the notice of termination provided to the department, then the permit or license shall be immediately suspended without further action by the department."

5. Page 23, line 9

**Following:** "return"**Insert:** "to the surety"

6. Page 23, line 9

**Following:** "expended"**Insert:** "including any unexpended interest accrued on bond proceeds, unless otherwise agreed to in writing by the surety."

SENATE NATURAL RESOURCES  
EXHIBIT NO. 17  
DATE 04/03/01  
BILL NO. HB 69

NATURAL RESOURCE COMMITTEE

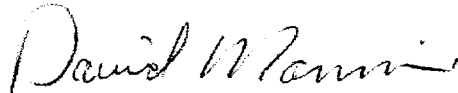
HB 69

Madam Chair and members of the committee:

Regarding HB 69; North Powell Conservation District Board would like to go on record as supporting HB 69. We have struggled in the past with what we felt was insufficient bonding as we dealt with mining applications and the district's responsibilities to administer the 310 laws.

Equipment and operating costs have escalated significantly in recent years. But more significantly the knowledge of, and acceptance for, what constitutes reclamation requires more sophisticated plans. As this should be the responsibility of the miners, the State shouldn't be left to fund reclamation when the mining company up and leaves. So again, we support HB 69.

Sincerely, David Mannix  
North Powell Conservation District Board



FROM SEN. VICKI COCCHIARELLA

TO: Representative  
Natural Resources Committee  
P. O. Box 201701  
Helena, MT 59620-1701

SUBJECT: House Bill No. 69

Dear Representative:

As Land owners in Madison County we are very concerned about the problems involved in the operation of small mines. We fully support House Bill No. 69 and encourage your full cooperation in getting it passed.

Since purchasing Cal-Creek Ranch in the late 1970's, we have seen a part of our deeded land known as Brown's Gulch deteriorate from a small area of mining damage (less than 2 acres) to a parcel (greater than 80 acres) of devastation. We have a typical situation where we own the surface rights and the Federal Government leases the mineral rights to those who have successfully filed on these rights. This land has been completely taken out of production, and the stream bed and riparian areas have been destroyed. We pay taxes on this land, while others are allowed to destroy its usefulness and health.

This destruction was allowed to happen because none of the parties working the claims has ever done any proper reclamation. Five different operators have worked the area during the last 20 years and have been exempt from meaningful bonding or other incentive to do any reclamation. Each project is preceded by a glowing operating plan detailing the "planned" reclamation procedures. The State is very quick to approve the plans and start the miners on their way. In each case in Brown's Gulch, no reclamation was ever done. Bonding has never been sufficient to cover the damage, and, in most cases, this "bonding" was not in a form which could be made available to the State if the operators should "walk". Therefore, the damage has been extended up Brown's Gulch five acres at a time over this period, with each operator walking away when they were finished or went broke.

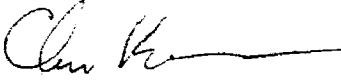
Current estimates to reclaim the area, including moving overburden back in place, putting the stream into a bed, contouring and establishing vegetation to prevent further erosion, have been put at 1.5 to 2 million dollars. The mining area and surrounding lands have become heavily infested with Spotted Knapweed because of the endless soil disturbance. The surface owners are liable for and have had to fund a major weed control effort in this area.

DATE 04/03/01

BILL NO. HB 69

Operators working under the "Small Miner's Exemption" basically have no responsibility to be good stewards of any of the land they work. Brown's Gulch and Cal-Creek Ranch are victims of this lack of proper control over mining operations. Unfortunately, this sort of thing occurs all over the state.

Sincerely,



Chris Koonce, manager



W. S. McGinnis, owner

Amendments to House Bill No. 69  
3rd Reading Copy

Requested by Senator Ken Toole

For the Senate Natural Resources Committee

Prepared by Larry Mitchell  
April 3, 2001 (2:35PM)

1. Page 23, line 1 through line 4.  
**Strike:** "ACCORDING" on line 1 through "FAILURE" on line 4

- END -

9. Page 11, line 4 through line 8.

**Following:** "unreclaimed" on line 4

**Strike:** "; or" on line 4 through "point" on line 8

**Insert:** "at any operation"

10. Page 12.

**Following:** line 9

**Insert:** "Section 2. Section 82-4-305, MCA, is amended to read:

**"82-4-305. Exemption -- small miners -- written agreement --fee.** (1) Except as provided in subsections (3) through ~~(10)~~

~~(12)~~, the provisions of this part do not apply to a small miner if the small miner annually agrees in writing:

(a) that the small miner will not pollute or contaminate any stream state waters;

(b) that the small miner will provide protection for human and animal life through the installation of bulkheads installed over safety collars and the installation of doors on tunnel portals;

(c) that the small miner will provide a map locating the miner's mining operations. The map must be of a size and scale determined by the department.

~~(d) if the small miner's operations are placer or dredge mining miner is required to reclaim pursuant to subsection (4), that the small miner shall salvage and protect all soil materials for use in reclamation of that site and shall reclaim all land disturbed by the operations to comparable utility and stability as that of adjacent areas.~~

~~(2) For small miner exemptions obtained after September 30, 1985, a small miner may not obtain or continue an exemption under subsection (1) unless the small miner annually certifies in writing:~~

~~(a) if the small miner is an individual, that:~~

~~(i) no business association or partnership of which the small miner is a member or partner has a small miner exemption; and~~

~~(ii) no corporation of which the small miner is an officer, director, or owner of record of 25% or more of any class of voting stock has a small miner exemption; or~~

~~(b) if the small miner is a partnership or business association, that:~~

~~(i) none of the associates or partners holds a small miner exemption; and~~

~~(ii) none of the associates or partners is an officer, director, or owner of 25% or more of any class of voting stock of a corporation that has a small miner exemption; or~~

~~(c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more of any class of voting stock of the corporation:~~

~~(i) holds a small miner exemption;~~

~~(ii) is a member or partner in a business association or~~

~~partnership that holds a small-miner exemption,  
(iii) is an officer, director, or owner of record of 25% or  
more of any class of voting stock of another corporation that  
holds a small-miner exemption. A small miner may not join with the  
operator of an adjacent operation to share facilities or conduct  
joint mining operations.~~

~~(3) A small miner whose operations are placer or dredge  
mining who files for an exemption after [the effective date of  
this act] shall post a performance bond equal to the state's  
documented cost estimate of reclaiming the disturbed land,  
although the bond may not exceed \$10,000 for each operation. If  
the small miner has posted with another government agency a bond  
that the department determines to be adequate for reclamation  
with another government agency, the small miner is exempt from  
the requirement of this subsection.~~

~~(4) (a) Except as provided in subsections (4)(b) and  
(4)(c), a small miner shall reclaim a new operation or new  
facility to the same standard that is contained in 82-4-336:~~

~~(i) if the operation is not a placer or dredge mining  
operation; and~~

~~(ii) if, after [the effective date of this act], the small  
miner:~~

~~(A) files for an exemption;~~

~~(B) adds an operation to an existing exemption; or~~

~~(C) adds a facility, such as a pit, adit, tunnel, dump,  
mill, or tailing impoundment, to an existing operation.~~

~~(b) For a new operation or new facility that is located  
totally on previously disturbed and unreclaimed land, the small  
miner is required to reclaim the new disturbance if the  
department determines that the new disturbance would actually or  
potentially add pollution or contamination to the air or state  
waters. This subsection (4)(b) does not abrogate any reclamation  
requirement imposed by any other statute.~~

~~(c) For a new operation or new facility that is located  
partially on previously disturbed and unreclaimed land, the small  
miner shall reclaim the portion of the operation that is located  
on previously disturbed and unreclaimed land if the department  
determines that the new disturbance would actually or potentially  
add pollution or contamination to the air or state waters. The  
small miner shall reclaim those previously undisturbed areas to  
the same standard that is contained in 82-4-336. This subsection  
(4)(c) does not abrogate any reclamation requirement imposed by  
any other statute.~~

~~(d) A small miner who conducts a placer or dredge mining  
operation shall reclaim all land disturbed by the operation or  
facility to the same standard that is contained in 82-4-336.~~

~~(4)(5) If a small miner who conducts a placer or dredge  
mining operation is required by subsection (4) to reclaim an  
operation fails to reclaim the operation, the small miner is  
liable to the department for all its reasonable costs of  
reclamation, including a reasonable charge for services performed~~



DATE 04/03/01

PAGE NO. used. If HB69

by state personnel and for state materials and equipment used. If the small miner posts a surety bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for the remainder of the reasonable costs to the state of reclaiming the operation.

~~(5)~~ (6) If a small miner who ~~conducts a placer or dredge mining operation~~ is required by subsection (4) to reclaim an operation fails to commence reclamation of the operation within 6 months after cessation of mining or within an extended period allowed by the department for good cause shown or if the small miner fails to diligently complete reclamation, the department shall notify the small miner by certified mail that it intends to reclaim the operation unless the small miner commences reclamation within 30 days and diligently completes the reclamation. The notice must be mailed to the address stated on the small miner exclusion statement or, if the small miner has notified the department of a different address by letter or in the annual certification form, to the most recent address given to the department. If the small miner fails to commence reclamation within 30 days or to diligently complete reclamation, the department may revoke the small miner exclusion statement, forfeit any bond that has been posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may also collect additional reclamation costs, as set forth in subsection ~~(6)~~ (7), before or after it incurs those costs.

~~(6)~~ (7) To collect additional reclamation costs, the department shall notify the small miner by certified mail, at the address determined under subsection ~~(5)~~ (6), of the additional reasonable reclamation costs and request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30 days, the department may bring an action in district court for payment of the estimated future costs and, if the department has performed any reclamation, of its reasonable actual costs. The court shall order payment of costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is completed. Upon completion of reclamation, the court shall order payment of any additional costs that it considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual reasonable costs incurred by the department.

~~(7)~~ (8) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents or reagents shall obtain an operating permit for that part of the small miner's operation in which the cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of. The acreage disturbed by the operation using cyanide ore-processing reagents or other metal leaching solvents or reagents and covered by the operating permit is excluded from the 5-acre limit specified in 82-4-303(15)(a)(i) and ~~(15)(a)(ii)~~.

~~(8)~~(9) The exemption provided in this section does not apply to a person:

~~(a) whose failure to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in the forfeiture of a bond, unless that person meets the conditions described who is prohibited from mining under 82-4-360;~~

~~(b) whose failure, or the failure of any firm or business association of which that person was a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department or the completion of reclamation by the person's surety or by the department;~~

~~(b)(c) who has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;~~

~~(c)(d) who has failed to post a reclamation bond required by this section, unless the department has certified that the area for which the bond should have been posted has been reclaimed by that person or reclaimed by the department and the person has reimbursed the department for the cost of the reclamation; or~~

~~(d)(e) who has failed to comply with an abatement order issued pursuant to 82-4-362, unless the department has completed the abatement and the person has reimbursed the department for the cost of abatement.~~

~~(9)~~(10) The exemption provided in this section does not apply to an area:

(a) under permit pursuant to 82-4-335;

(b) that has been permitted pursuant to 82-4-335 and reclaimed by the permittee, the department, or any other state or federal agency; or

(c) that has been reclaimed by or has been subject to remediation of contamination or pollution by a public agency, under supervision of a public agency, or using public funds.

~~(10)~~(11) A small miner may not use mercury except in a contained facility that prevents the escape of any mercury into the environment.

(12) A small miner shall pay a fee of \$10 to the department to obtain the exemption and \$10 annually thereafter to renew the exemption provided in this section."

{Internal References to 82-4-305:

82-4-331 ok 82-4-335 ok 82-4-360 amd}"

**Renumber:** subsequent sections

11. Page 25, line 7.

**Strike:** "2 and 10"

**Insert:** "3 and 11"

- END -

Amendments to House Bill No. 69  
2<sup>nd</sup> Reading Copy

Requested by the Montana Mining Association  
April 3, 2001

1. Page 14, line 23.

Following: \$500.

Insert: If the person is disturbing between 5 and 15 acres, the person shall pay a basic permit fee of \$25.

2. Page 18, line 10.

Following: SELECTED

Insert: “ , directed and compensated”

3. Page 18, line 28.

Strike: “After” through “the”

Insert: “The”

4. Page 18, line 29.

Following: “determination.”

Insert: “in 30 days.”

5. Page 19, line 7 through line 10

Strike: “As” through “department.”

6. Page 24, line 7 through line 9

Strike: “if” through “behalf.”

7. Page 24, line 10 through line 15

Strike: subsection (2) in its entirety

Insert: (2) A person described in subsection (1) may apply for an operations permit or an exploration license or may conclude a written agreement under 82-4-305 if that person first pays to the department:

- (a) the full amount of the necessary expenses incurred by the department under 82-4-341 (6) for reclamation of the area for which the bond was forfeited;
- (b) the full amount of any penalties assessed under this part, and
- (c) interest on these amounts and penalties incurred at the rate of 6% per year.

## Missoula Chapter, Montana Mining Association

## NEEDED AMENDMENTS TO HB 69

## 1. Page 16 of 22 - Section 6 (3) Lines 14 &amp; 15

DELETE all new language about the 30 day public comment period  
AFTER "operation is located Delete: " After a 30 day public comment period on the proposed bond determination" INSERT AFTER " The department shall issue a final bond determination" " within 30 days "

## 2. Page 16 of 22 - Section 6 (3) Lines 25 &amp; 26

Delete all language about the requirement to post the full amount of final bond determination as a condition to any right to appeal that amount."  
AFTER request for hearing Delete: " As a condition precedent to any right to request a hearing, the licensee or permittee shall post with the department in the amount of the final bond determination. Failure to post bond with the department in the amount of the final bond determination , as provided in this section must result in the immediate suspension of the permit or license without further action by the department. "

## 3. Strike all fee increases throughout the bill

## 4. Page 11 of 22 - Section 3 (3-c)

Restore all language after required by 82-4-305  
"unless the department has certified that the area for which the bond should have been posted has been reclaimed by the department and the person has reimbursed the department for the cost of the reclamation."

## Page 20 of 22 - Section 9 (2)

Restore all of paragraph "a person described in subsection (1) may apply for an operations permit or an exploration license or may conclude a written a written agreement under 82-305 if the person first pays to the department (a) - (b) - (c) -"

## 5. Section 3, subsection 3a. insert after "principal or controlling member" the language "at the time of the default".

HB 69 - SB 449

-MCA-

82-4-331(1) Raise the exploration renewal fee to \$25.

- That is reasonable.

-332(1)(a) Raise exploration fees to \$100, from \$5.00.

- That is excessive! What is the justification for raising the fee so much? \$25 to \$50 would be just fine.

-335(3) Raise Operating permit fee to \$500, from \$25.00.

- That is way TOO much!!! This will prevent every small miner from applying for a permit because of the excessive cost. Is the objective of the State to continue to reduce mining operations? What is the justification for the increase?

-338(3) The 30 day public comment period is a VERY BAD idea, especially on something that doesn't have any need for public involvement. How many people in the public are experts in bond calculations or engineering? Why do you want a bunch of emotional anti-mining enviro's flooding the state with a bunch of propoganda? If the State wants to do this, they will need to immediately provide direction and guidelines for the public to follow when commenting - do's and don'ts. Otherwise, the State is going to have to hire a lot more people or will be so backlogged that they will never get anything completed and the project will be unnecessarily delayed. If you include the comment period, you also need to include direction and limitations to it. Otherwise it is a very bad idea!!!

-350 (1) Raise Annual Report fees to \$100, from \$25.00.

- That way excessive! Apparently the goal of prohibiting mining through exhorborant fees is applied here too. This will definitely make it prohibitive for a small miner or individual to operate a mine in Montana. Is that the States goal? It sure seems to be. (Who pays taxes? Who will pay after the mines are all forced to shut down?)

-360(2) Why is the State wanting to drop this section? No one to date has provided any answer on why it needs to be struck - maybe you can?

Is forfeiting a bond a worse crime than robbing or killing someone? Why prohibit a person from ever mining again in his life because he may have made one mistake? What is the justification for a "one strike, you're out" attitude? NO one has given ANY justifications for striking this section yet.

Unless there is a valid reason for striking this sections backed up with the appropriate data, it must be left.

Alan Gata, Small Miner  
P.O. Box 545  
Canyon Creek, Mt. 59633

no need for any others. **SEN. COCCHIARELLA** expressed concern with the bill being unclear regarding who it would apply to. She also was concerned that the state was "mandating" those entities to follow this particular public relations action and questioned the outcome of this type of approach. **SEN. MCCARTHY** said she agreed with **SEN. COCCHIARELLA** and **SEN. TASH** that this was not needed and felt it would "muddy the water".

**Roll Call Vote:** The motion that **HB 420 BE CONCURRED IN AS AMENDED** failed 4-6 with Grosfield, Roush, Taylor, and Toole (proxy vote) voting aye.

**Motion/Voice Vote:** **SEN. TASH** moved that **HB 420 BE TABLED**. Motion carried 7-2 with Roush and Toole (proxy vote) voting no.

*{Tape: 1; Side: A; Approx. Time Counter: 0-20.5}*

#### EXECUTIVE ACTION ON HB 69

**Motion:** **SEN. BEA MCCARTHY** moved that **HB 69 BE CONCURRED IN**.

**Discussion:** **SEN. MCCARTHY** recalled the many separate sets of amendments brought forth at the hearing and asked if those amendments were blended into one set or were there several sets. **CHAIRMAN BILL CRISMORE** stated we would only be addressing the amendments that had been brought forth and prepared for action via legislative staffer **Larry Mitchell**. After those were offered, if other amendments were needed, that issue would be discussed and considered. **SEN. LORENTS GROSFIELD** reminded the committee that this bill would have to pass committee and be on the floor yet today, like in an hour, to meet the transmittal deadline. **CHAIRMAN CRISMORE** offered his amendments, **HB006913.alm** as **EXHIBIT(nas80a02)**. **Larry Mitchell**, legislative staff, explained amendments **HB006913.alm** did basically three things. Amendments #1 through #8 restored existing language in terms of when a person may get an exploration license or an operating permit. Amendments #9 through #13, addressed some language changes on page 18 of the bill and inserted a section regarding the selection process for third-party contractors. On page 19, language was inserted regarding bond calculations. On pages 24 and 25, amendments #14 and #15 would strike section 9 in its entirety and renumber the subsequent sections. **SEN. GROSFIELD** noted three concepts, amendments #1 through #8, #9 through #13, and #14 and #15. *{End of Tape: 1; Side: A}* Referencing #1 through #8 regarding the "bad actor" provision, **SEN. GROSFIELD** stated the DEQ wanted some ability to encourage people not to be bad actors and the "strike one and you're out" was a strong enticement

versus the "pay all your bills and you're in". **SEN. GROSFIELD** thought there could be some middle ground approach established that not only required payment of all bills but allowed the DEQ the ability to decide to give the applicant another chance if the applicant had changed their ways; remedied the reasons for the former bond forfeiture, demonstrated change, had the financial capability to go ahead and operate and accomplish reclamation within the new permit. **SEN. GROSFIELD** offered his amendments, **HB006917.alm** as **EXHIBIT(nas80a03)**. It was explained that **SEN. GROSFIELD'S** amendments were similar to amendments #1 through #8 and #14 and #15 of **CHAIRMAN CRISMORE'S** amendments, **HB006913.alm** with the difference involving the portions of the bill that #9 through #13 addressed.

**Motion:** **SEN. GROSFIELD** moved that **AMENDMENTS TO HB 69 (HB006917.alm) BE ADOPTED.**

**Discussion:** **SEN. MIKE TAYLOR** raised some concern over a "bad actor" who had forfeited bond and forced the state to assume responsibility for completing reclamation including the associated costs and then being able to come back, pay back the state, and operate once again in Montana. **Jan Sensibaugh, Director, Montana Department of Environmental Quality (DEQ),** stated that after the party had reimbursed the state with all costs from the past operation, the DEQ would have to be comfortable the party was capitalized enough to gain approval to move forward with mining.

**Voice Vote:** The motion that **AMENDMENTS TO HB 69 (HB006917.alm) BE ADOPTED** carried unanimously. Vote was 8-0.

**Motion:** **SEN. GROSFIELD** moved that **AMENDMENTS TO HB 69 (ONLY #9 THROUGH #13 OF HB006913.alm) BE ADOPTED.**

**Discussion:** **SEN. VICKI COCCHIARELLA** suggested that in the future the Board of Investments be considered as a resource consultant with their proven expertise with bonding. **SEN. GROSFIELD** did not entirely disagree but thought **HB 69** and other related bills that recently passed went a long way toward increasing the bonding wealth. **SEN. MCCARTHY** recalled that quite a bit of testimony at the hearing was directed at small miners and asked if the small miner would be exempted from **HB 69** from the adoption of these amendments. **Mr. Mitchell** confirmed that was correct.

**Voice Vote:** The motion that **AMENDMENTS TO HB 69 (ONLY #9 THROUGH #13 OF HB006913.ALM) BE ADOPTED** carried unanimously. Vote was 8-0.

**SEN. GROSFIELD** offered his amendments **HB006915.alm**, **EXHIBIT(nas80a04)**, regarding the applicability date in relation to the changes just adopted and asked **legislative staff, Mary Vandebosch** and **Larry Mitchell** if this was still needed as he did not want a current permittee today that defaulted a decade ago to forego the effects of **HB 69**. **Mr. Mitchell** did not believe it was necessary with the same language retained now as in existing statutes and the issue would be whether or not the legislature desired to require the proof of past bond forfeitures. **SEN. GROSFIELD** said he wanted this to be "prospective" and asked the DEQ if, in passing the amendments regarding the applicability date, the department would be placed in a position to have to rule on some current permit or revoke a permit based on some past "bad actor" activity of the permittee. **John North, Chief Legal Counsel, DEQ**, responded no current permit or permittee would be jeopardized by this language and he concurred with **Larry Mitchell** that it depended upon whether the legislature wanted the additional showing to be prospective only. He suspected the DEQ, under the Hard-Rock Mining Act, in the last ten or fifteen years, might have revoked around five to ten bonds. **SEN. GROSFIELD** determined he did not wish for the amendments, **HB006915.alm**, to be used today. **SEN. GROSFIELD** offered his amendments, **HB006914.alm** as **EXHIBIT(nas80a05)**.

**Motion:** **SEN. GROSFIELD** moved that **AMENDMENTS TO HB 69 (HB006914.alm) BE ADOPTED**.

**Discussion:** **SEN. GROSFIELD** explained **HB006914.alm** was a combination of some amendments discussed around the hearing including those brought forward by **Leo Berry** who represented the surety, **National Fire Insurance Company of Hartford**. To understand the "compromise" amendment #2, refer to page 18, line 14, where the following language would be inserted, "The mine owner is responsible for the first \$5,000 in contractor services provided under this subsection. The mine owner and the department are each responsible for 50% of any amount over \$5,000". At the hearing, the suggestion arose that the third-party contractor be selected, directed, and compensated by the department versus the current language that just said the contractor would be "selected", generally, by the applicant and the DEQ and compensated by the applicant. **SEN. GROSFIELD** said, in most cases, the mine owner requested the third-party so they would pay the first \$5,000 and then any amount over \$5,000 would be split 50% with the DEQ. He added he understood most contractors would cost under \$5,000 with some costing up to \$20,000 or so. Amendment #4 was minor and replaced the word "discuss" with "negotiate". **SEN. GROSFIELD** said amendment #5 deleted the provision of a 30-day public comment period, on page



18, line 28. Amendment #6 stated the DEQ had 30 days for determination of the bond amount and the permittee shall post full bond with the DEQ no later than 30 days after issuance, "Unless the licensee or permittee requests a hearing...". Amendments #7 and #8 adjusted language on page 19, lines 1 and 2. Amendment #9 provided clarity in that the word "reasonable" on page 19, line 3, would be stricken and replaced with a "30-day" extension of the deadline if the permittee demonstrated through the exercise of reasonable diligence they were unable to post the bond within 30 days. Amendment #10 and #11 regarded the calculation and submittal of a bond, page 19, particularly regarding an adjusted bond that was increased by the DEQ's determination it was inadequate after a mine had been permitted. Amendment #10 stated, unless the applicant requested a hearing on the amount, the full bond was required to be posted with the DEQ within 30 days. If the applicant requested a hearing before the board, the applicant must specify the amount of bond increase considered appropriate and state the reasons they felt the final bond determination was excessive. If the bond amount was not agreed upon by the applicant, amendment #11 helped describe the process; the applicant would be required to post the portion the applicant stated was considered appropriate in the request for hearing or the amount that was one-half of the increase contained in the department's final bond determination, whichever amount was greater. The hearing would then address the additional balance and, in that manner, the DEQ would get at least a portion of the increase up front. If the permittee failed to post the required amount by the deadlines, the permit would be suspended and the permittee should immediately cease mining and exploration operations until the required bond was posted with and approved by the DEQ. **SEN. TAYLOR** asked the DEQ to comment on the process proposed. **Director Sensibaugh** explained the DEQ followed a list of bond components to consider when calculating a bond amount. Often times, when the DEQ presented the proposed bond calculation to the company, discussion occurred over specific calculations with the company in agreement and disagreement with some of the calculations. She said if the final bond amount could not be negotiated or agreed upon, this proposal allowed the DEQ to collect the amount agreed upon or 50% of the increase, whichever was more, allowing the DEQ some adequate coverage while going through the appeal process. She added the DEQ was comfortable with the process in amendment **HB006914.alm**. **SEN. TAYLOR** asked what the normal cost for a third-party contractor was. **Director Sensibaugh** felt \$5,000 was probably adequate to cover the task contracted which basically just involved sitting down with the mine owners and the DEQ and objectively come to terms with the amounts. **{End of Tape: 1; Side: B}**

**SEN. TASH** asked if the mining industry felt the proposal was a reasonable approach to negotiate the terms and conditions of the

bond amount. **Angela Janacaro**, representing the **Montana Mining Association**, responded it was. **SEN. GROSFIELD** went on to explain amendments #12, #13, and #16 related to the surety issue. **Larry Mitchell** stated amendment #14 was a correction. **SEN. GROSFIELD** stated amendment #15 needed review and asked the DEQ to comment on it. **John North** explained #15 applied to the situation in which the DEQ had forfeited the bond due to a default by the mining company. The current bill had language in it that said the DEQ was supposed to use the bond money to implement reclamation in accordance with the reclamation plan. When **HB 69** was in the House in subcommittee, the DEQ negotiated with the bonding companies for the ability to amend the reclamation plan while the mine was operating if, at the time of bond forfeiture, it appeared the reclamation plan would result in a violation of air and water quality laws or if there was some substantial failure of reclamation.

**Substitute Motion/Voice Vote:** **SEN. GROSFIELD** made a substitute motion that **AMENDMENTS (HB006914.alm) TO HB 69 BE ADOPTED EXCLUDING AMENDMENT #15. Substitute motion carried unanimously. Vote was 8-0.**

**Larry Mitchell** reported he drafted a couple of amendments for **SEN. KEN TOOLE** though no direction was given to act on those. **SEN. GROSFIELD** noted the transmittal deadline today and affirmed **SEN. TOOLE** could offer his amendments on the Senate floor. **CHAIRMAN CRISMORE** confirmed there were no additional amendments offered at this time.

**Motion/Roll Call Vote:** **SEN. GROSFIELD** moved that **HB 69 BE CONCURRED IN AS AMENDED** with **HB006919.alm, EXHIBIT(nas80a06)** which combined adopted amendments. **Motion carried 9-2 with Miller and Taylor voting no. SEN. PRES. TOM BECK** will carry **HB 69** on the Senate floor. **{Tape: 2; Side: A; Approx. Time Counter: 0-9.1}**

### **HB 513**

**SEN. KEN MILLER** asked if there was any will to move or reconsider **HB 513** which eliminated nitrate testing for single family residences, as there were some amendments offered. It was discussed that **HB 513** had missed the transmittal deadline for general bills and the possible application of suspension rules was also discussed in regards to amendments placed on it.

### **HB 421**

Amendments to House Bill No. 69  
3rd Reading Copy

Requested by Senator William Crismore

For the Senate Natural Resources Committee

Prepared by Larry Mitchell  
April 9, 2001 (9:02AM)

1. Title, line 10.

**Strike:** "82-4-360,"

2. Page 13, line 6.

**Following:** "resulted in"

**Strike:** "either the forfeiture receipt of"

**Insert:** "the forfeiture of a"

3. Page 13, line 7.

**Strike:** line 7 in its entirety

**Insert:** ", unless that person meets the conditions described in  
82-4-360"

4. Page 13, line 14.

**Following:** "reclamation"

**Insert:** ", unless the department has certified that the area for  
which the bond should have been posted has been reclaimed by  
that person or reclaimed by the department and the person  
has reimbursed the department for the costs of the  
reclamation"

5. Page 16, line 29.

**Following:** "resulted in"

**Strike:** "either the forfeiture receipt of"

**Insert:** "the forfeiture of a"

6. Page 16, line 30.

**Strike:** line 30 in its entirety

7. Page 17, line 1.

**Following:** "~~82-4-360~~"

**Insert:** ", unless that person meets the conditions described in  
82-4-360"

8. Page 17, line 7.

**Following:** "reclamation"

**Insert:** ", unless the department has certified that the area for  
which the bond should have been posted has been reclaimed by  
that person or reclaimed by the department and the person  
has reimbursed the department for the costs of the

reclamation"

9. Page 18, line 9.

**Following:** "(2)"

**Insert:** "(a)"

10. Page 18, line 10.

**Following:** "MORE"

**Strike:** "OBJECTIVE"

**Insert:** "third-party"

11. Page 18, line 11.

**Following:** "AND THE"

**Strike:** "MINE OPERATOR"

**Insert:** "applicant"

**Following:** "BY THE"

**Strike:** "MINE OPERATOR"

**Insert:** "applicant"

12. Page 18.

**Following:** line 14

**Insert:** "(b) To select a third-party contractor as authorized in subsection (2)(a), the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant."

13. Page 19, line 24.

**Following:** "bonded."

**Insert:** "Bond calculations, including calculations for the initial bond or for subsequent bond reviews and adjustments, may not include amounts for any occurrence or contingency that is not a reasonably foreseeable result of any activity conducted by the applicant."

14. Page 24, line 3 through line 15.

**Strike:** section 9 in its entirety

**Renumber:** subsequent sections

15. Page 25, line 7.

**Strike:** "10"

**Insert:** "9"

- END -

Amendments to House Bill No. 69  
3rd Reading Copy

Requested by Senator Lorents Grosfield

For the Senate Natural Resources Committee

Prepared by Larry Mitchell  
April 9, 2001 (1:20PM)

1. Page 13, line 8.

**Following:** "~~82-4-360~~"

**Insert:** ", unless that person meets the conditions described in  
82-4-360"

2. Page 17, line 1.

**Following:** "~~82-4-360~~"

**Insert:** ", unless that person meets the conditions described in  
82-4-360"

3. Page 24, line 4.

**Following:** "~~exception~~"

**Insert:** "-- exception"

4. Page 24, line 5.

**Strike:** "A"

**Insert:** "(1) Except as provided in subsection (2), a"

5. Page 24.

**Following:** line 15

**Insert:** "(2) A person described in subsection (1) may apply for  
an operating permit or an exploration license or may  
conclude a written agreement under 82-4-305 if:

(a) that person pays to the department:

(i) the full amount of the necessary expenses incurred by  
the department under 82-4-341(6) for reclamation of the area for  
which the bond was forfeited;

(ii) the full amount of any penalties assessed under this  
part; and

(iii) interest on the expenses incurred and penalties  
assessed at the rate of 6% per year; and

(b) the person demonstrates and the department determines  
that the person has remedied the conditions that led to the bond  
forfeiture or receipt of the bond proceeds and that those  
conditions no longer exist."

- END -

SENATE NATURAL RESOURCES  
EXHIBIT NO. 4  
DATE 04/09/01  
BILL NO. HB 69

Amendments to House Bill No. 69  
3rd Reading Copy

Requested by Senator Lorents Grosfield

For the Senate Natural Resources Committee

Prepared by Larry Mitchell  
April 9, 2001 (12:00PM)

1. Page 25, line 20.

**Following:** "Applicability."

**Insert:** "(1)"

2. Page 25.

**Following:** line 22

**Insert:** "(2) Section 82-4-360 applies to actions that result in bond forfeitures or reclamation by the department of environmental quality or a surety that are initiated after [the effective date of this act]."

- END -

Amendments to House Bill No. 69  
3rd Reading Copy

Requested by Senator Lorents Grosfield  
For the Senate Natural Resources Committee

Prepared by Larry Mitchell  
April 9, 2001 (11:59AM)

1. Page 17, line 30.

**Following:** "with"

**Insert:** "Title 75, chapters 2 and 5,"

2. Page 18, line 14.

**Following:** "ADJUSTMENT."

**Insert:** "The mine owner is responsible for the first \$5,000 in contractor services provided under this subsection. The mine owner and the department are each responsible for 50% of any amount over \$5,000."

3. Page 18, line 15.

**Following:** "(3)"

**Insert:** "(a)"

4. Page 18, line 23.

**Following:** "60 days to"

**Strike:** "discuss"

**Insert:** "negotiate"

5. Page 18, line 28.

**Following:** "located."

**Strike:** "After a 30-day public comment period on the proposed bond determination, the"

**Insert:** "The"

6. Page 18, line 29.

**Following:** "determination"

**Insert:** "in 30 days"

**Following:** " \_ "

**Strike:** "The"

**Insert:** "Unless the licensee or permittee requests a hearing under subsection (3)(b), the "

7. Page 19, line 1.

**Following:** "DEMONSTRATES"

**Insert:** "that"

8. Page 19, line 2.

**Following:** "DILIGENCE,"

**Strike:** "THAT"

9. Page 19, line 3.

**Strike:** "REASONABLE"

**Insert:** "30-day"

**Following:** "DEADLINE."

**Insert:** "(b)"

10. Page 19, line 7.

**Following:** "hearing."

**Insert:** "The request for hearing must specify the amount of bond increase, if any, that the licensee or permittee considers appropriate and state the reasons that the licensee or permittee considers the department's final bond determination to be excessive."

11. Page 19, line 8 through line 10.

**Following:** "of the"

**Strike:** remainder of line 8 through line 10

**Insert:** "bond increase that the licensee or permittee has stated is appropriate in the request for hearing or the amount that is one-half of the increase contained in the department's final bond determination, whichever amount is greater. If the board determines that additional bond is necessary, the licensee or permittee shall post bond in the amount determined by the board within 30 days of receipt of the board's decision. If the licensee or permittee demonstrates that, through the exercise of reasonable diligence, the licensee or permittee will not be able to post the bond within 30 days, the department shall grant a reasonable extension of the deadline."

(c) If a licensee or permittee fails to post bond in accordance with subsection (3)(a) or (3)(b) in the required amounts by the required deadlines, the license or permit is suspended by operation of law and the licensee or permittee shall immediately cease mining and exploration operations until the required bond is posted with and approved by the department."



12. Page 20, line 17.

**Following:** "SUBSECTION (8)"

**Insert:** "and for the actual cost of the surety's expenses in responding to the department's forfeiture demand"

13. Page 20.

**Following:** line 24

**Insert:** "(d) Any interest accrued on bond proceeds that is not required to abate the imminent danger determined in subsection (8)(a) must be returned to the surety, unless otherwise agreed to in writing by the surety.

(9) If a bond is terminated as a result of the action or inaction of a licensee or permittee or is canceled or otherwise terminated by the surety issuing the bond and the licensee or permittee fails to post a new bond for the entire amount of the terminated bond within 30 days following the notice of termination provided to the department, then the license or permit must be immediately suspended without further action by the department."

14. Page 22, line 27.

**Following:** "order"

**Strike:** "as provided in 82-4-338(7)"

**Insert:** "by certified mail"

15. Page 23, line 2.

**Following:** "WRITTEN FINDING"

**Insert:** "pursuant to the procedures provided in 82-4-337(3),"

16. Page 23, line 9.

**Following:** "return"

**Insert:** "to the surety"

**Following:** "expended"

**Insert:** ", including any unexpended interest accrued on bond proceeds, unless otherwise agreed to in writing by the surety"

- END -

Amendments to House Bill No. 69  
3rd Reading Copy

Combined Amendments from the Committee  
From the Senate Natural Resources Committee

Prepared by Larry Mitchell  
April 9, 2001 (3:51PM)

1. Page 13, line 8.

**Following:** "~~82-4-360~~"

**Insert:** ", unless that person meets the conditions described in  
82-4-360"

2. Page 17, line 1.

**Following:** "~~82-4-360~~"

**Insert:** ", unless that person meets the conditions described in  
82-4-360"

3. Page 17, line 30.

**Following:** "with"

**Insert:** "Title 75, chapters 2 and 5,"

4. Page 18, line 9.

**Following:** "(2)"

**Insert:** "(a)"

5. Page 18, line 10.

**Following:** "MORE"

**Strike:** "OBJECTIVE"

**Insert:** "third-party"

6. Page 18, line 11.

**Following:** "AND THE"

**Strike:** "MINE OPERATOR"

**Insert:** "applicant"

**Following:** "BY THE"

**Strike:** "MINE OPERATOR"

**Insert:** "applicant"

7. Page 18, line 14.

**Following:** "ADJUSTMENT."

**Insert:** "The mine owner is responsible for the first \$5,000 in  
contractor services provided under this subsection. The mine  
owner and the department are each responsible for 50% of any  
amount over \$5,000."

8. Page 18.

**Following:** line 14

**Insert:** "(b) To select a third-party contractor as authorized in subsection (2)(a), the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant."

9. Page 18, line 15.

**Following:** "(3)"

**Insert:** "(a)"

10. Page 18, line 23.

**Following:** "60 days to"

**Strike:** "discuss"

**Insert:** "negotiate"

11. Page 18, line 28.

**Following:** "located."

**Strike:** "After a 30-day public comment period on the proposed bond determination, the"

**Insert:** "The"

12. Page 18, line 29.

**Following:** "determination"

**Insert:** "in 30 days"

**Following:** "."

**Strike:** "The"

**Insert:** "Unless the licensee or permittee requests a hearing under subsection (3)(b), the "

13. Page 19, line 1.

**Following:** "DEMONSTRATES"

**Insert:** "that"

14. Page 19, line 2.

**Following:** "DILIGENCE."

**Strike:** "THAT"

15. Page 19, line 3.

**Strike:** "REASONABLE"

**Insert:** "30-day"

**Following:** "DEADLINE."

**Insert:** "(b)"