



ENVIRONMENTAL QUALITY COUNCIL

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May 15, 2018

To: Environmental Quality Council Members
From: Erin Bills, Legal Staff
Re: Legislative history of the "bad actor" provisions of the Montana Metal
Mine Reclamation Act

The Environmental Quality Council (EQC) requested that the "bad actor" provisions of the Montana Metal Mine Reclamation Act (MMMRA) be added to its May 2018 meeting agenda. Pursuant to the EQC's request, this memorandum briefly summarizes the legislative history of these specific provisions of the MMMRA.

Since enactment in 1971, three amendments were made to the MMMRA that are relevant to the EQC's request. The hard rock mining provisions of the MMMRA referred to as the "bad actor" provisions include sections 82-4-331(3), 82-4-335(9), and 82-4-360(1), MCA.

First, in 1989, the Legislature inserted language disallowing issuance of an exploration license unless the provisions of 82-4-360, MCA, are met.¹ Under this section, if a "person or any firm or business association of which that person was a principal or controlling member had a bond forfeited under this part, if the department otherwise received proceeds from a surety to perform reclamation on that person's behalf, or if the person's surety completed reclamation on the person's behalf, "that person may not conduct mining or exploration activities in the state."² However, if a person described above pays the department, as required under 82-4-306(2)(a), that person "may apply for an operating permit or exploratory license or conclude a written agreement."³

¹ House Bill 581 (1989) was supported by members of the mining industry. See 1989 House Committee on Natural Resources, Executive Action on House Bill No. 581, page 7.

² 82-4-360(1), MCA (2017).

³ 82-4-360(2), MCA.

Second, in 1993, Montana lawmakers amended 82-4-335(9), MCA to include additional restrictions to the exploration licensing provision for persons who have not paid a penalty, posted a reclamation bond, or complied with an abatement order.⁴

Lastly, in 2001, lawmakers added to the so-called "bad actor" provisions in 82-4-331, MCA, by including "principal or controlling member" to the list of possible "bad actors" subject to the MMMRA.⁵

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⁴ Sec. 3, Ch. 598, L. 1993.

⁵ 2001 Senate Committee on Natural Resources, Executive Action on House Bill No. 69, pages 3 - 7. This legislative history contains the discussion of "bad actors" at pages 3-7 and the addition of "principal or controlling member" at page 13.