

1973 Bill 47

Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 47

The Land Surface Conservation and Reclamation Act

MINISTER OF THE ENVIRONMENT

First Reading

Second Reading

Third Reading

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**THE LAND SURFACE CONSERVATION AND RECLAMATION
ACT**

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BILL 47

1973

THE LAND SURFACE CONSERVATION AND RECLAMATION ACT

(Assented to _____, 1973)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. In this Act

- (a) "Authority" means the Environment Conservation Authority under *The Environment Conservation Act*;
- (b) "chairman" means the chairman of the Council;
- (c) "Council" means the Land Conservation and Reclamation Council;
- (d) "Department" means the Department of the Environment;
- (e) "deputy chairman" means a deputy chairman of the Council;
- (f) "geophysical exploration" means the investigation of the subsurface by
 - (i) seismic operations, or
 - (ii) gravimetric operations, or
 - (iii) magnetic operations, or
 - (iv) electrical operations, or
 - (v) geochemical operations, or
 - (vi) test drilling, or
 - (vii) any other operations or method employed to determine geologic or other conditions underlying the surface of land,but does not include a geological survey unless holes are drilled or to be drilled to a depth in excess of 20 feet;
- (g) "geophysical operations" means any work or acts done in connection with or incidental to geophysical exploration;
- (h) "government agency" means
 - (i) any corporation, or
 - (ii) any unincorporated board, commission, council or other body that is not part of a department or other part of the public service of Alberta,

Explanatory Notes

General. This Bill will result in a comprehensive Act dealing with the conservation of the surface of land. It will repeal and replace The Surface Reclamation Act, section 11 of The Public Lands Act and the Public Lands Surface Reclamation regulations. The Bill goes beyond the requirements of The Surface Reclamation Act (which deals with reclamation after surface operations are concluded) by authorizing preventive requirements for land conservation before the surface operations are commenced. (See Part 2).

The Bill can be made to apply to any kind of operations resulting in surface disturbance (for example, sand and gravel pits) where The Surface Reclamation Act and Public Lands Surface Reclamation Regulations are largely restricted to operations in the oil and gas and mining industries.

The Bill will establish the Land Conservation and Reclamation Council to replace the present Surface Reclamation Council. The new Council will have a broader base for representation than the present one.

1. Definitions.

- all of whose members are appointed or designated, either in their personal names or by their names of office, by an Act, an order of the Lieutenant Governor in Council or a Minister of the Crown in right of Alberta, or by any combination thereof;
- (i) "local authority" means
 - (i) the council of a city, town, village, county or municipal district, or
 - (ii) the board of administrators of a new town, or
 - (iii) in the case of an improvement district or special area, the Minister of Municipal Affairs;
 - (j) "mine" includes any mine to which *The Coal Conservation Act* applies;
 - (k) "Minister" means the Minister of the Environment;
 - (l) "municipality" means a city, town, new town, village, municipal district, county, improvement district or special area;
 - (m) "natural resources" means land, plant life, animal life, water and air;
 - (n) "occupant" means
 - (i) a purchaser under an agreement for sale of land, or
 - (ii) a person, other than the owner, who is in actual occupation of land adjacent to land that is the subject of a surface lease or right of entry order;
 - (o) "owner" means
 - (i) the person in whose name a subsisting certificate of title has been issued pursuant to *The Land Titles Act*, or
 - (ii) where no certificate of title has been issued, the Crown or other body administering the land;
 - (p) "pipe line" means
 - (i) a pipe for the transmission of any substance, and installations in connection therewith, or
 - (ii) a sewer or sewage system and installations in connection therewith;
 - (q) "pit" means a pit or excavation in the ground made for the purpose of removing, opening up or proving any sand, gravel, clay, marl, peat or other substance, but does not include a mine or quarry;
 - (r) "quarry" means a pit or excavation in the ground made for the purpose of removing, opening up or proving any mineral other than coal;
 - (s) "Supreme Court" or "Court" means the Supreme Court of Alberta;
 - (t) "surface disturbance" means

- (i) the disturbance, exposure, covering or erosion of the surface of land in any manner, or
- (ii) the degradation or deterioration in any manner of the surface of land;
- (u) “telecommunication line” means a system or arrangement of lines of wire or other conductors by which telephone or other kinds of communications are transmitted and received by electronic means;
- (v) “transmission line” means a system or arrangement of lines of wire or other conductors and transformation equipment by which electric energy is transmitted and installations in connection therewith but does not include a power plant or an electric distribution system as defined in *The Hydro and Electric Energy Act*.

2. (1) Except as otherwise provided herein, this Act applies to all lands within Alberta.

(2) This Act does not apply to

- (a) subdivided land used or intended to be used for residential purposes, or
- (b) any part of any unsubdivided land that is the site of a residence and the land used in conjunction with that residence for residential purposes.

(3) Part 2 does not apply to any agricultural operation or activity and the Lieutenant Governor in Council has no power to designate any kind of agricultural operation or activity as a regulated surface operation pursuant to that Part.

3. (1) Except as otherwise specifically provided in this Act, the Crown is bound by this Act.

(2) Subsection (1) does not operate to make the Crown, any Minister or employee of the Crown, any government agency or any member or employee of a government agency liable to prosecution for any offence under this Act or the regulations.

2. Application of Act.

3. This Act will bind the Crown except where otherwise provided. The main exception is that the Crown will not be required to file security or performance bonds under Part 2.

PART 1

GENERAL

Functions of the Minister

4. Except as otherwise provided in this Act, the Minister is charged with the administration of this Act.

5. The Minister shall promote and co-ordinate

- (a) the preparation and maintenance of an inventory of natural resources within Alberta, and
- (b) the recording, analysis, compilation and dissemination of statistical data and information required for the administration of this Act and shall make provision for its distribution to the public.

6. The Minister may prescribe the form of any document used in the course of the administration of this Act.

7. (1) The Minister may enter into an agreement on behalf of the Government with an owner of land to restrict the purposes to which that land may be used by that owner and his successors in title in consideration of the payment by the Government of the compensation specified in the agreement.

(2) An agreement under this section may be for a specified term or of indefinite duration.

(3) An agreement under this section may be registered under *The Land Titles Act*.

8. (1) Where any person proposes to undertake any operation or activity and, in the opinion of the Minister, the operation or activity will result or is likely to result in surface disturbance, the Minister may order that person to prepare and submit to the Minister within the time prescribed in the order, a report containing an assessment of the environmental impact of the proposed operation or activity where the Minister considers it in the public interest to do so.

(2) An order of the Minister under subsection (1) may require that the report contain an assessment of the impact of the proposed operation or activity on all or any of the following, namely,

- (a) the conservation, management and utilization of natural resources;
- (b) the prevention and control of pollution of natural resources;

4. The Minister of the Environment will administer this Act.

5. The Minister will promote and co-ordinate the necessary statistical analyses and data required for the operation of the Act.

6. Forms.

7. The Minister may enter into agreements with landlords to restrict the use of parcels of land in order to achieve the objectives of this Bill.

8. Requirement for submission of an environmental impact assessment report in more serious cases.

- (c) the prevention of noise and the control of noise levels resulting from the operation or activity in so far as they affect the environment in the vicinity of those operations or activities;
- (d) economic factors that directly or indirectly affect the ability of the applicant to carry out measures that relate to the matters referred to in clauses (a), (b) and (c);
- (e) the preservation of natural resources for their aesthetic value.

(3) An order of the Minister under subsection (1) may require that the report show any alternative means by which the proposed operation or activity could be carried out.

(4) A report under subsection (1) shall be prepared and submitted in accordance with the regulations or, in the absence of regulations, in accordance with the directions of the Minister.

(5) This section applies whether or not the proposed operation or activity is the subject of an application for an approval under Part 2.

(6) Any person who fails to comply with an order of the Minister under this section is guilty of an offence.

9. (1) Where the Minister is satisfied that any person

- (a) has contravened or is contravening a provision of this Act or a regulation or order under this Act, or
- (b) has failed to comply with an order or direction of the Council under this Act or under the regulations, or
- (c) is carrying on an operation under the authority of an approval under Part 2 but the operation is resulting in a degree of surface disturbance or other damage or consequences that could not have been reasonably foreseen at the time the approval was issued,

the Minister may issue an order (in this section called a "stop order") to that person in accordance with subsection (2).

(2) In a stop order the Minister may require that the person to whom it is directed

- (a) cease the contravention specified in the order, or
- (b) stop any operations, either permanently or for a specified period,

and the stop order shall contain the reasons for making it.

(3) Within 48 hours after making a stop order, the Minister shall cause a copy of it to be served on the person

9. The Minister may, in a proper case, issue a stop order. This is comparable to the stop order provisions in The Department of the Environment Act, The Clean Air Act and The Clean Water Act.

to whom it is directed, and upon receipt of such copy, the person to whom the stop order is directed shall comply with the order forthwith.

(4) A person to whom a stop order is directed and who fails to comply with the order forthwith upon service of a copy of it upon him or at any time subsequent thereto, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 for each day that the offence continues or to a term of imprisonment of not more than 12 months or to both the fine and imprisonment.

(5) Where the person to whom a stop order is directed fails to comply with the stop order forthwith upon service of a copy of it upon him or at any time subsequent thereto, the Minister may apply to the Supreme Court by way of originating notice of motion for an order of the Court directing that person to comply with the stop order.

(6) Where the person to whom the stop order is directed fails to comply with the stop order forthwith upon service of a copy of the order of the Supreme Court under subsection (5) upon him or at any time subsequent thereto,

- (a) the failure to comply with the stop order may be dealt with by the Court as in the case of a civil contempt of the Court,
- (b) an officer of the Department authorized by the Minister for the purpose of any other persons assisting the officer may, without further leave of the Court and without incurring liability therefor, enter upon any land and do any acts that are necessary to carry out the stop order,
- (c) the sheriff, the sheriff's bailiff and any other persons under the written direction of the sheriff may assist the officer of the Department and his assistants in enforcing their powers and duties under clause (b), and
- (d) the Minister may recover by action any expenses incurred by the Government in carrying out the stop order pursuant to clause (b) from the person to whom the stop order was directed.

(7) A person to whom a stop order is directed may, within 15 days after service upon him of a copy of the order, appeal to the Minister in accordance with the regulations for an inquiry into the stop order.

(8) Where an appeal is made under subsection (7), the Minister shall refer the appeal and the stop order to the Authority for an inquiry.

(9) The Authority shall

- (a) hold a hearing to inquire into all matters leading to the making of the stop order, and

(b) determine whether, in its opinion, there were sufficient grounds for the making of the stop order, and upon completion of the inquiry the Authority shall report its findings to the Minister together with any recommendations in regard to the confirmation, amendment or revocation of the stop order.

(10) Upon receipt of the report of the Authority, the Minister shall either confirm, amend or revoke the stop order and shall notify accordingly the person to whom the stop order was directed.

(11) The Minister may

(a) amend a stop order if he considers it advisable in the circumstances to do so, or

(b) revoke a stop order,

and shall accordingly notify the person to whom the stop order was directed.

(12) This section applies whether or not the contravention of the Act, regulation or order concerned constitutes an offence, and whether or not a conviction has been adjudged for the offence.

10. The Minister may by order

(a) establish specified areas within which any type of geophysical operations may be prohibited or curtailed, or

(b) establish specified areas within which any type of geophysical operations may be prohibited during a specified period of the year.

Powers of the Lieutenant Governor in Council

11. The Lieutenant Governor in Council may make regulations

(a) providing for any matter necessary to carry out the provisions of this Act or to meet cases that may arise and for which no provision is made by this Act;

(b) prescribing a tariff of fees payable

(i) for the filing of applications for, or for the issue of, approvals under Part 2 and reclamation certificates under Part 3,

(ii) for the filing of any returns, reports or other documents that are required or permitted to be filed under this Act or the regulations, and

(iii) for any other service provided under this Act or the regulations by the Council, the Department, any officer or employee of a Department of the Government or by a government agency;

10. Restricted area order affecting geophysical operations.

11. Regulations by the Lieutenant Governor in Council.

- (c) providing, with respect to any provisions of any regulations under this Act, that its contravention constitutes an offence;
- (d) providing, in respect of an offence provided for pursuant to clause (c), for penalties by way of fine or imprisonment or both for which the offender is liable on summary conviction therefor;
- (e) governing the manner in which geophysical operations may be conducted on land or water covered areas.

12. (1) The Lieutenant Governor in Council may make regulations authorizing the Minister to provide

- (a) grants, or
 - (b) loans, or
 - (c) guarantees on behalf of the Government of the principal amounts of loans,
- for the purpose of providing financial assistance for
- (d) the cost of restoring, reclaiming or developing derelict lands, or
 - (e) the cost of restoring, reclaiming or developing any land that is in danger of becoming derelict or that may, in the absence of any restoration, reclamation or development, become derelict, or
 - (f) the cost of developing or reclaiming land for some other use, whether in stages or otherwise, or
 - (g) the cost of reclaiming land or doing any other work in respect of land in order to allow it to return to its natural state and to achieve a cessation of any human use of that land.
- (2) Regulations under subsection (1) may
- (a) prescribe the procedure for the submission of applications for a Government grant, loan or guarantee, the form and content of the applications, and the conditions required to be met by the applicants to render them eligible for the grant, loan or guarantee,
 - (b) prescribe the terms and conditions upon which the grants, loans or guarantees may be given,
 - (c) prescribe the duties and obligations of a person to whom a loan or guaranteed loan is made during the period that his indebtedness under the loan is outstanding,
 - (d) prescribe the security to be given to the Government by applicants in consideration of a loan or guarantee,

12. This section provides for financial assistance in certain cases through grants, loans or guarantees of loans

- (e) prescribe the types or classes of lending institutions in respect of whose loans guarantees may be given, and
- (f) generally, provide for any other matter necessary for the purpose of administering the giving of grants, loans or guarantees under the regulations.

13. (1) The Lieutenant Governor in Council may establish one or more committees for the purposes of this section and the regulations under section 25, subsection (1), clause (i) consisting of employees of the Government or members or employees of government agencies or both, and may prescribe their powers and duties.

(2) The Lieutenant Governor in Council may order that any proposals for the disposition by the Government of any kind of estates or interests in real property, or any particular kinds of proposals or plans by the Government or any government agency that will result or are likely to result in surface disturbance, shall be referred to one or more of the following for a report before it is proceeded with or continued:

- (a) a committee established under subsection (1);
- (b) a specified department of the Government or any other division of the public service of Alberta;
- (c) a specified official employed by the Government or a government agency;
- (d) a specified government agency or member of a government agency.

(3) The Lieutenant Governor in Council may make regulations requiring any applications or any class of applications made under this or any other Act, or the regulations under any of them, for a permit, licence, approval, consent, disposition, registration, certificate or other document to be referred by the person or body to whom the applications are made to one or more of the following before they are proceeded with or decided upon:

- (a) a committee established under subsection (1);
- (b) a specified department of the Government or any other division of the public service of Alberta;
- (c) a specified official employed by the Government or a government agency;
- (d) a specified government agency or member of a government agency.

(4) A regulation may only be made under subsection (3) where the application or class of applications are related directly or indirectly to the use of the surface of land or where the permit, approval, consent, disposition, registration, certificate or other document pertains directly

13. Referral procedures for proposals and plans of the Government and government agencies that may result in surface disturbance and for applications under various statutes for permits, approvals etc., that involve or may involve surface disturbance of land.

or indirectly to the surface of land or will enable the holder thereof to conduct any operation or activity that may directly or indirectly result in a surface disturbance of land.

(5) A report made pursuant to subsection (2) or a regulation under subsection (3) shall contain recommendations regarding the proposal, plan or application that is the subject of the report.

(6) Any report made pursuant to subsection (2) shall be made to the Minister unless otherwise directed by the order under that subsection.

(7) Where an application is the subject of a referral procedure by reason of a regulation made under subsection (3),

(a) the report shall be made to the Minister and to the person or body to whom the application was made, unless otherwise provided in the regulation;

(b) notwithstanding anything in the Act under which the application is made, the person or body to whom the application is made shall not proceed with or decide upon the application until the report mentioned in subsection (3) has been received by and considered by that person or body, except to the extent permitted by the regulation.

(8) The Minister is responsible for the co-ordination of referral procedures established pursuant to subsection (2) or (3) and for the co-ordination of the proposals, plans and applications that are the subject of those referral procedures

(a) as between the departments of the Government and the government agencies concerned, and

(b) as between the Government of Alberta, on the one hand, and the Government of Canada, municipal corporations and commercial and industrial businesses, on the other.

14. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize the Minister of Mines and Minerals to acquire by exchange, purchase or expropriation any estate or interest in mines or minerals within, upon or under any land to prevent the environmental degradation or inconsistent use of that land as a result of the exploration for or recovery of those mines or minerals.

Land Conservation and Reclamation Council

15. (1) There is hereby established the Land Conservation and Reclamation Council.

14. Mineral rights may be acquired to achieve environmental control.

15. Establishment and composition of the Land Conservation and Reclamation Council. A municipality will be able to appoint members, but if it does it must appoint at least two. Regional planning commissions may also be represented.

(2) The Council shall consist of the following members, namely,

- (a) the chairman of the Council, who shall be an employee of the Department of the Environment designated as chairman by the Minister with the approval of the Lieutenant Governor in Council,
- (b) a deputy chairman of the Council, who shall be an employee of the Department of Lands and Forests designated by the Minister of Lands and Forests,
- (c) a deputy chairman of the Council, who shall be an employee of the Department of Mines and Minerals designated by the Minister of Mines and Minerals,
- (d) those persons appointed as members of the Council pursuant to *The Public Service Act*,
- (e) those employees of the Government or of government agencies who are appointed as members by the Lieutenant Governor in Council pursuant to section 34,
- (f) those members appointed by local authorities pursuant to subsection (3), and
- (g) those members appointed by regional planning commissions pursuant to subsection (6).

(3) Each local authority may appoint two or more members to the Council but, subject to subsection (4), any member so appointed may act only in cases involving land in the municipality for which he is appointed.

(4) Where for any reason only one person appointed by a local authority holds office as a member of the Council, that person's appointment is suspended until at least two persons appointed by that local authority hold office as members of the Council.

(5) Where there are two members of the Council appointed by the same local authority and one of them ceases to hold office as a member of the Council for any reason, then, notwithstanding subsection (4), the suspension of the other member under that subsection does not take effect until he is notified of the fact of the first member ceasing to hold office.

(6) A regional planning commission under *The Planning Act* may appoint one or more of its employees as members of the Council but any member so appointed may act only in reviews under section 55 involving land in the regional planning area for which he is appointed.

(7) A member of the Council appointed under subsection (3) or (5) shall not be a member of a municipal council, board of administrators of a new town or a regional planning commission.

(8) A local authority or regional planning commission shall notify the chairman of each appointment made by it under this section and of the revocation or termination of any such appointment.

(9) The Minister of the Environment shall designate one of the deputy chairmen of the Council to be the acting chairman of the Council in the event of the absence or inability to act of the chairman or in the event of a vacancy in the office of chairman.

16. (1) In accordance with *The Public Service Act*, there may be appointed inspection and reclamation officers, a secretary and such other employees as are required to carry on the business of the Council.

(2) The secretary and employees of the Council shall perform such duties as may be prescribed by the chairman.

(3) The secretary shall have the custody and care of the records and documents belonging to or pertaining to the Council and filed in its office.

(4) A copy of an order, certificate, decision, plan, invoice or other document of the Council or of records with the Council, certified by the chairman or secretary as a true copy, shall be admitted in evidence in all cases in which the original document would be admitted, without any proof of the appointment of or the authenticity of the signature of the chairman or secretary or any other proof.

Entry on Land

17. (1) The Minister or any person authorized by the Minister may, without incurring liability therefor, enter upon any land or premises for the purpose of exercising or performing any powers or duties conferred or imposed on the Minister by this Act or the regulations.

(2) The chairman or any member of the Council authorized by the chairman may, without incurring liability therefor, enter upon any land or premises for the purpose of exercising or performing any powers or duties conferred or imposed on the chairman or the Council by this Act or the regulations.

(3) Any person to whom a reclamation order is directed under Part 3 or who is otherwise directed to do any work with respect to land pursuant to this Act or the regulations may, without incurring liability therefor, enter upon the land concerned for the purpose of carrying out the reclamation order or the direction.

(4) Any person referred to in subsection (1), (2) or (3) shall, before entering any lands or premises pursuant to

16. Staff for the Council.

17. Right to enter land to carry out statutory powers and duties.

those subsections, give prior written notice of his intention to enter to the occupant, or, if there is no occupant, to the owner, if it is practicable in the circumstances to do so.

(5) Where any person referred to in subsection (1), (2) or (3) wishes to enter any lands or premises pursuant to those subsections and is prevented from entering, the Attorney General may apply to the Supreme Court by way of originating notice of motion for an order permitting that person to enter the lands or premises for the purposes specified in the order, and an order so made may be enforced by the sheriff.

General Penalty

18. A person who is guilty of an offence under this Act or the regulations for which no penalty is expressly provided, is liable on summary conviction to a fine not exceeding \$5,000 and in default of payment to a term of imprisonment not exceeding three months.

18. General Penalty.

PART 2

APPROVALS FOR REGULATED SURFACE OPERATIONS

19. In this Part

- (a) “approval” means an approval issued under this Part;
- (b) “regulated surface operation” means an operation or activity designated by a regulation under this Part as a regulated surface operation.

Transfer and Delegation of Administration

20. (1) The Lieutenant Governor in Council may by regulation transfer to the Minister of Lands and Forests or any other Minister of the Crown the administration of this Part

- (a) with respect to all or any part of Alberta, and
- (b) with respect to the kinds of regulated surface operations specified in the regulation.

(2) A regulation under subsection (1) shall also specify those provisions of this Part in which reference is made to the Minister of the Environment that shall, for the purposes of that regulation, be construed as referring instead to the Minister to whom the administration was transferred.

21. (1) The Lieutenant Governor in Council may by regulation designate any officer of the Crown or any government agency as a person who may exercise the powers of the Minister under those provisions of this Part that are specified in the regulations with respect to

- (a) all or any part of Alberta, and
- (b) any kind of regulated surface operations.

(2) Where a regulation is made under subsection (1) then, unless the regulation otherwise provides,

- (a) a reference to the Minister in any of the provisions specified in the regulation shall be deemed to refer instead to the officer of the Crown or the government agency so designated by the regulation, and
- (b) a reference to the Department in any of the provisions specified in the regulation shall be deemed to refer instead, as the case requires, to the department of the Government of which the officer is an employee or to the government agency so designated by the regulation.

19. Definitions. This Part depends entirely for its operativeness on the making of a regulation under section 23 to have some kind of operation or activity designated as a “regulated surface operation”.

20. Transfer of administration from the Minister of the Environment to another Minister.

21. Delegation of Minister's powers to a specified officer of another department or to a government agency.

22. (1) The Minister may by regulation delegate his powers and duties under any of the provisions of this Part to the chairman of the Council or to the Council,

- (a) with respect to all or any part of Alberta, and
- (b) with respect to all or any specified kind of regulated surface operations.

(2) Where a regulation is made by the Minister under subsection (1),

- (a) a reference to the Minister in any provision of this Part to which the regulation relates shall, subject to clause (a), be deemed to be a reference to the chairman or to the Council, as the case requires,
- (b) the regulation may also specify the circumstances under which a reference to the Minister in any provision of this Part to which the regulation relates shall be deemed to be a reference to a deputy chairman.

Designation of Regulated Surface Operations

23. (1) The Lieutenant Governor in Council may by regulation designate any kind of operation or activity as a regulated surface operation if the operation or activity is also of a kind falling within the following descriptions, namely,

- (a) the drilling, operation or abandonment of a well;
- (b) the construction, operation or abandonment of a pipe line, battery, transmission line or telecommunication line;
- (c) the opening up, operation or abandonment of a mine or quarry;
- (d) the opening up, operation or abandonment of a pit or of a waste disposal site or land fill site;
- (e) geophysical operations that result or will result in surface disturbance;
- (f) the construction, operation or abandonment of a mineral processing plant, road, railway or aircraft landing strip;
- (g) the construction, operation or abandonment of any structure (including a micro-wave tower) forming part of a broadcasting undertaking as defined in the *Broadcasting Act* (Canada);
- (h) the construction, operation or abandonment of a site for subsurface disposal of solid or liquid waste;
- (i) the conduct of examinations and surveys on land made in connection with water or the conduct of exploration in respect of surface and subsurface water;

22. Delegation of the Minister's powers and duties to the Council or its chairman.

23. The regulations will designate those kinds of surface-disturbing operations that will be "regulated surface operations" under this Part. A designation of a "regulated surface operation" can be restricted in a particular part of Alberta and as to the circumstances in which it applies. Thus, for example, the drilling of wells could be a "regulated surface operation" in a specified part of Alberta but only where the well was drilled within a prescribed distance from a watercourse or water body. If the well is to be drilled in those circumstances and in that part of Alberta, then an approval will be required beforehand: see section 24.

Existing or on-going operations will be allowed a period of up to 18 months to obtain an approval.

- (j) the construction of any works for the impoundment, conveying or diversion of water;
 - (k) the preparation of land to be used for the purpose of industrial sites or for recreational development;
 - (l) the excavation and removal of top soil or peat for the purposes of sale;
 - (m) the excavation and removal of archaeological findings;
 - (n) any alteration of or extension of any operation or activity referred to in clauses (a) to (m).
- (2) Where an operation or activity is designated as a regulated surface operation by a regulation under subsection (1), the regulation
- (a) shall also specify either that the designation applies to all of Alberta or, if not, the part of Alberta to which it applies, and
 - (b) may also restrict the designation by limiting or specifying the circumstances in which the operation or activity is to be a regulated surface operation.
- (3) Where an operation or activity is designated as a regulated surface operation by a regulation under subsection (1) and the regulation applies to operations or activities that are being carried on at the date of the commencement of the regulation or were being carried on at any time during the year in which the regulation came into force, the regulation shall also fix a date not later than 18 months from the commencement of the regulations by which persons conducting the regulated surface operation are required to obtain an approval in respect of the operation.

Approvals

24. (1) Unless he has first obtained an approval therefor under this Part, no person shall, subject to subsection (3), commence or continue or recommence any operation or activity in, upon, or over the surface of any land where

- (a) the operation or activity is of a kind designated by the regulations under section 23 as a regulated surface operation, and
- (b) the land to be affected by the operation or activity is within a part of Alberta to which the designation applies.

(2) Where a regulation under section 23 restricts the designation of a regulated surface operation by limiting or specifying the circumstances in which the operation or activity is to be a regulated surface operation, subsection (1) only applies to the operation or activity if those circumstances exist or will exist at the time of the commencement of the operation or activity.

24. Requirement for approval to commence an operation or activity involving surface disturbance. The approval will be required only if the operation is one designated by the regulations and is done in a part of Alberta specified by the regulations. Approvals will be issued by the Minister except where there is a transfer or delegation of administration.

(3) Where a regulation is made pursuant to section 23, subsection (3) with respect to any class of regulated surface operation, subsection (1) of this section does not apply to any person continuing or recommencing any operation or activity to which that regulation applies until the date fixed by that regulation as the date by which that person is required to obtain an approval in respect of his operation or activity.

25. (1) The Lieutenant Governor in Council may make regulations

- (a) prescribing the procedure for the submission of applications for approvals, the form and content of the applications, the conditions required to be met by applicants for approvals, and the kinds of plans and specifications that must accompany applications;
- (b) prescribing the terms and conditions upon which the approvals may be granted;
- (c) providing for the duration of approvals and their renewal;
- (d) prescribing circumstances in which no approval shall be granted with respect to any specified kind of regulated surface operation, and the area in which that prohibition applies;
- (e) providing for the amendment, replacement and transfer of approvals;
- (f) prescribing the duties and obligations of a person to whom an approval is granted;
- (g) authorizing the Minister to require applicants to give security to the Government or holders of approvals to give additional security to the Government;
- (h) prescribing the nature and kind of security to be given to the Government by applicants for approvals and holders of approvals, and prescribing the basis for calculating the security;
- (i) prescribing the administrative and referral procedures by which applications for approvals may be dealt with;
- (j) generally, providing for any other matters necessary for the purpose of this Part.

(2) Subsection (1), clauses (g) and (h) do not apply where the applicant or holder of the approval is the Crown, a Minister of the Crown or a government agency.

26. (1) An application for an approval shall be accompanied by plans and specifications which shall

25. Regulations governing approvals.

26. Plans and specifications by applicant.

- (a) be submitted and prepared in compliance with the regulations or in such additional detail as the Minister may require, and
 - (b) describe the nature of the surface disturbance that will result or is likely to result from the operations.
- (2) The Minister may require an applicant for an approval to submit any additional information that he considers necessary.

27. (1) Subject to any regulations under section 25, subsection (1), clause (d), the Minister may grant or refuse to grant the approval or may require a change in the specifications or location as a condition precedent to granting an approval.

- (2) The Minister may
- (a) make an approval subject to conditions, or
 - (b) specify requirements as to the manner in which land conservation and reclamation is to be conducted.

28. (1) Where any person has commenced, continued or recommenced a regulated surface operation in contravention of section 24, the Minister may make an order directing that person to cease the operation forthwith until he satisfies the Minister that the operation will be carried on in accordance with the approved plans and specifications and the conditions of the approval.

(3) An order under subsection (1) or (2) may be referred to as a "surface disturbance control order".

(4) The Minister shall cause a copy of a surface disturbance control order to be served personally or by mail upon the person to whom it is directed.

(5) Any person who fails to comply with a surface disturbance control order, upon service upon him of a copy of the order or at any time subsequent thereto, is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000 for each day during which any operation was carried on in contravention of the order.

(6) Where any person fails to comply with a surface disturbance control order, upon service upon him of a copy of the order or at any time subsequent thereto, the Minister may apply to the Supreme Court by way of originating notice of motion for an order of the Court directing that person to comply with the surface disturbance control order.

- (7) Any person who
- (a) contravenes section 24, or

27. Disposition of application for an approval.

28. The Minister may issue “surface disturbance control orders” where no approval was obtained or where operations are not in accord with the terms or conditions of the approval.

(b) being the holder of an approval, contravenes any terms or conditions of the approval,
is guilty of an offence.

29. (1) The Minister may direct the holder of an approval to provide, within the time limited by the direction, to the Minister or any person authorized by the Minister

- (a) any records or other information specified in the direction and related to surface disturbance caused by the holder's operations and subsequent reclamation by him or copies thereof, or
- (b) access to any records or other information specified in the direction and related to surface disturbance caused by the holder's operations and subsequent reclamation by him.

(2) Where the Minister or person authorized by him is provided with records or information or access thereto pursuant to subsection (1), the Minister or the person so authorized may make copies of or take extracts from such records or information.

(3) A person who fails to comply with a direction given to him pursuant to subsection (1) within the time limited in the direction is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 for each day that the contravention continues.

30. (1) Where the reclamation of the land to which an approval applies has been completed, the holder of the approval may apply for a return of the deposit given pursuant to the regulations.

(2) Where an application is made under subsection (1), the Minister

- (a) shall return the deposit if a reclamation certificate has been issued under section 51 in respect of all of the land to which the approval applies and no additional time is needed in the opinion of the Council to determine the effectiveness of the reclamation;
- (b) shall return the deposit if a reclamation certificate has been issued under section 52 and, following an inquiry pursuant to subsection (2) of that section, either
 - (i) no reclamation order was issued, or
 - (ii) a reclamation order was issued and the work required by the order has been completed;
- (c) where a reclamation certificate has been issued under section 53, may require that all or part of

29. Access to records and information related to surface disturbance and reclamation.

30. Return or forfeiture of security.

the security be retained until after the Minister has received a copy of the decision of the Council under section 53, subsection (4);

- (d) may require that all or part of the security be retained, where the land has not been reclaimed in a manner satisfactory to the Council and a reclamation order has been issued under section 53, subsection (4), clause (b) with respect to the land.

(3) Where the Minister retains all or part of the security pursuant to subsection (2), clause (c),

- (a) the Minister shall return any part of the security not so retained;
- (b) if the Council's decision is that the reclamation has been effective, the Minister shall return all or part of the security so retained;
- (c) if the Council's decision is that the reclamation has not been effective and issues a reclamation order under section 53, subsection (4), clause (b), the Minister shall return all or part of the security so retained upon completion of the work required to be done by the order.

(4) Where the Minister retains all or part of the security pursuant to subsection (2), clause (d),

- (a) the Minister shall return any part of the security not so retained;
- (b) the holder of the approval may apply again under subsection (1) for the return of the deposit after the work required by the reclamation order has been completed and after a reclamation certificate has been issued by the Council or the chairman under Part 3.

(5) Where the reclamation of part of the land to which an approval applies has been completed, the holder of the approval may apply for the return of part of the deposit given pursuant to the regulations and thereupon the Minister may return such part of the deposit as he may specify.

(6) Where by reason of a failure to comply with a reclamation order under Part 3 or otherwise, the Government pays any moneys under this Act for the cost of maintaining, conditioning or reclaiming any land to which an approval applies,

- (a) the Minister may order that the security given by the holder of the approval be forfeited to the Crown in right of Alberta, and
- (b) subject to the regulations, the amount, if any, by which the security so forfeited exceeds the moneys so paid by the Government shall be returned to the holder of the approval.

PART 3
RECLAMATION ORDERS AND CERTIFICATES

31. In this Part

- (a) “expropriation board” means the board, person or other body having the power to order termination of a right of entry order as to the whole or part of any lands affected by the order;
- (b) “operator” means
 - (i) a person in whose favour a surface lease or right of entry order is held, as an original party or by transfer or other document or by amendment of the order, or the agent of that person, or
 - (ii) where a surface lease or right of entry order has been surrendered or terminated, the person in whose favour the surface lease or right of entry order was held at the time of the surrender or termination, or
 - (iii) where a surface lease has expired, the person in whose favour the surface lease was held at the time of the expiry, or
 - (iv) a person who, whether as principal or agent and whether as owner or not, uses or has used land to which this Part applies for any purpose enumerated in section 32;
- (c) “reclamation certificate” or “certificate” means a reclamation certificate issued under this Part;
- (d) “reclamation order” or “order” means an order issued under this Part;
- (e) “right of entry order” means
 - (i) an order granting right of entry and made by the Surface Rights Board under *The Surface Rights Act* or by the Board of Arbitration under *The Right of Entry Arbitration Act* or made by the Board of Public Utility Commissioners or a district court judge under regulations established pursuant to *The Provincial Lands Act* prescribing the conditions under which the right of entry may be obtained upon land, or
 - (ii) an order for the expropriation of land or an interest in land required for the purposes of
 - (A) a pipe line and made by the Surface Rights Board, the Board of Arbitration under *The Right of Entry Arbitration Act*, the Public Utilities Board or the Board of Public Utility Commissioners, or

31. Definitions.

- (B) a transmission line and made by the Surface Rights Board, the Board of Arbitration under *The Right of Entry Arbitration Act*, the Public Utilities Board or the Board of Public Utility Commissioners;
- (f) “surface lease” means a lease, easement, licence, agreement or other instrument granted or made before or after the commencement of this section and under which the surface of land to which this Part applies has been or is being held;
- (g) “surrender” means a surrender, relinquishment, quit claim, release, notice, agreement or other instrument whereby a surface lease is discharged or otherwise terminated as to the whole or part of the lands affected by the surface lease;
- (h) “termination” means the termination of a right of entry order by an expropriation board as to the whole or part of the lands affected by the order;
- (i) “well” means any well, whether or not a licence is required in respect of it under *The Oil and Gas Conservation Act*.

32. (1) Subject to regulations made under section 35, subsection (1), clause (a) and except as provided in section 41, this Part applies to land that is being or has been used for or in connection with, or is being held or has been held incidental to or in connection with,

- (a) the drilling, operation or abandonment of a well, or
 - (b) the construction, operation or abandonment of a pipe line, battery or transmission line, or
 - (c) the opening up, operation or abandonment of a mine or quarry, or
 - (d) the opening up, operation or abandonment of a pit or of a waste disposal site or land fill site, or
 - (e) the conduct of geophysical operations, or
 - (f) any other operation or activity designated as a regulated surface operation under Part 2, or
 - (g) the construction, operation or abandonment of an extra-territorial undertaking.
- (2) In this section “extra-territorial undertaking” means that portion of
- (a) a pipe line as defined in the *National Energy Board Act* (Canada), or
 - (b) an international power line as defined in the *National Energy Board Act* (Canada), or
 - (c) a railway to which the *Railway Act* (Canada) applies, or

32. Application of Part.

- (d) a broadcasting undertaking as defined in the *Broadcasting Act* (Canada), or
 - (e) that part of any other interprovincial or international communications system,
- that is situated in Alberta.

Transfer and Delegation of Administration

33. (1) The Lieutenant Governor in Council may by regulation transfer to the Minister of Lands and Forests the administration of any of the provisions of this Part

- (a) with respect to all or any part of Alberta, and
- (b) with respect to the kinds of operations specified in the regulation.

(2) Where a regulation is made under subsection (1) and transfers administration to the Minister of Lands and Forests, then, with respect to the part of Alberta affected by the regulation and with respect to the kinds of operations specified in the regulation,

- (a) the deputy chairman designated by the Minister of Lands and Forests shall, in his capacity as deputy chairman, exercise and perform the powers and duties of the chairman, and
- (b) an employee of the Department of Lands and Forests designated by the Minister of Lands and Forests for the purpose as deputy secretary shall exercise and perform the powers and duties of the secretary of the Council.

34. (1) The Lieutenant Governor in Council may appoint as members of the Council

- (a) any employees of the Government other than employees of the Department of the Environment, or
- (b) employees of a government agency.

(2) The Lieutenant Governor in Council may by regulation specify

- (a) the kinds of operations or activities in respect of which any specified members or class of members appointed under subsection (1) may act as members of the Council, and
- (b) the part of Alberta in which any specified members or class of members appointed under subsection (1) may act as members of the Council.

Regulations

35. (1) The Lieutenant Governor in Council may make regulations

33. Transfer of administration of certain provisions to the Minister of Lands and Forests as to unsurveyed or surveyed territory. The deputy chairman appointed by the Minister of Lands and Forests in effect will be the chief officer of the Council for that territory. At present, reclamation in unsurveyed territory is administered by the Department of Lands and Forests under the Public Lands Surface Reclamation Regulations.

34. Appointment of employees of the Government or government agencies as members of the Council. This will enable other Departments to be involved in the work of the Council in particular parts of Alberta and in fields where their special knowledge could be utilized.

35. Regulations.

- (a) exempting from the operation of this Part
 - (i) any class of wells, pipe lines, transmission lines or telecommunication lines, or
 - (ii) wells, pipe lines, transmission lines or telecommunication lines, or any class thereof, in any area of Alberta;
 - (b) prescribing the manner in which any class of lands to which this Part applies must be conditioned, maintained and reclaimed;
 - (c) prescribing the manner in which any kind of operation or activity enumerated in section 32 is to be conducted for purposes in connection with or incidental to the conditioning, maintenance or reclamation of the surface of land;
 - (d) prescribing standards or criteria to be used by the Council to determine whether any land is conditioned, maintained or reclaimed in a satisfactory manner;
 - (e) prescribing the circumstances under which members appointed by local authorities and the circumstances under which an inquiry may be held by the members of the Council;
 - (f) providing for procedures respecting the giving of prior notice of inquiries by the Council to the parties concerned;
 - (g) providing for procedures in respect of reviews by the Council under section 55;
 - (h) providing the procedures in respect of appeals to the district court under this Part.
- (2) Regulations under this section may apply generally or may make different provisions with respect to different parts of Alberta or different classes of land.

36. Subject to the provisions of this Part, the conditioning, maintenance and reclamation of the surface of land to which this Part applies shall be performed in accordance with the regulations made pursuant to section 35 or, in the absence of such regulations or any applicable regulations, in a manner satisfactory to the Council.

Inquiries

- 37.** Subject to this Act and the regulations, all inquiries conducted by the Council under this Part shall be made by
- (a) one or more members appointed under *The Public Service Act* or by the Lieutenant Governor in Council, and
 - (b) one member appointed by the local authority for the municipality within which the land concerned is located.

36. General requirement as to reclamation standards.

37. Inquiries will be conducted by Council members representing municipalities and the Government.

38. (1) Any inquiry that may be made by the Council shall be made in whole or in part on the land that is the subject of the inquiry.

(2) Prior to the holding of an inquiry the owner or occupant and the operator shall be notified in accordance with the regulations.

(3) The Council in conducting any inquiry is not bound by the rules of law concerning evidence.

(4) A copy of a reclamation order or reclamation certificate shall be given to the owner and, where the land is occupied by a person other than the owner, to the occupant.

Reclamation Orders

39. (1) Where the Council is authorized to make a reclamation order under this Part, the order may direct the performance of any work that is necessary in the opinion of the Council to do any or all of the following in respect of the land that is the subject of the inquiry by the Council:

- (a) subject to subsection (3), to condition, maintain or reclaim the land or any part thereof, and land adjacent thereto, or
- (b) to destroy or prevent the growth of noxious weeds or weed seeds, or
- (c) to remove or remedy any hazard to human life, domestic livestock or wildlife, or to the conduct of agricultural or other operations, or
- (d) to install or repair any fence, gate, cattle guard, culvert or other thing.

(2) A reclamation order shall specify the date by which the work is to be completed.

(3) Where the regulations prescribe criteria or standards for, or the manner of carrying out, the conditioning, maintenance or reclamation of the land, the reclamation order shall be in accordance with the regulations.

(4) A reclamation order shall be directed to the operator concerned.

40. (1) This section does not apply

- (a) to any land in respect of which a reclamation certificate has been issued except where the inquiry is authorized pursuant to section 52, or section 53, subsection (3) or a review is made under section 55, or
- (b) in any case to which section 44 applies, except as otherwise directed pursuant to that section.

38. Conduct of inquiry.

39. Reclamation orders generally.

40. Council may issue a reclamation order requiring remedial work to be undertaken.

(2) Subject to subsection (1), the Council may hold an inquiry with respect to the condition of any land to which this Part applies.

(3) At or following an inquiry under subsection (2), the Council may, if it considers it necessary to do so, issue a reclamation order with respect to the land that is the subject of the inquiry.

41. (1) The Council may hold an inquiry in any case where an operator or any person acting on his behalf, in the course of conducting operations on or in relation to the land held by the operator under a surface lease or right of entry order,

- (a) enters onto any land outside the boundaries of that surface lease or right of entry order and does any act that results in a surface disturbance of that land, or
- (b) causes any substance to leave or escape from land held by the operator under a surface lease or right of entry order in any manner that results in a surface disturbance of other land.

(2) At or following an inquiry under this section, the Council may, if it considers it necessary to do so, issue a reclamation order with respect to the land held under the surface lease or right of entry land or other land or both.

(3) This section does not affect any cause of action or other remedy that any person may have in respect of the subject matter of an inquiry under this section.

(4) Any operator or any person acting on behalf of an operator who in the course of conducting operations on or in relation to land held by the operator under a surface lease or right of entry order

- (a) enters onto any land outside the boundaries of that surface lease or right of entry order and does any act that results in a surface disturbance of that land, or
- (b) causes any substance to leave or escape from land held by the operator under a surface lease or right of entry order in any manner that results in a surface disturbance of other land,

is guilty of an offence.

42. (1) Where representations are made to the chairman that a reclamation order was erroneously issued or improperly directed to the person named in that order, the chairman may consider the representations and in his discretion may

41. Reclamation order in the case of damage off the well site or right of way. Subsection (4) creates an offence in such cases.

42. Appeal to the chairman where it is contended that a reclamation order was directed to an incorrect party.

- (a) allow the reclamation order to stand, or
- (b) cancel the reclamation order, or
- (c) cancel the reclamation order and issue a new order directed to some other person.

(2) Where a new reclamation order is issued under subsection (1) the chairman may extend the date by which the work is to be completed.

43. (1) Where a reclamation order is not complied with, the chairman may cause any work to be done to remedy the default and the expenses incurred shall be paid by the Minister out of funds appropriated by the Legislature for that purpose.

(2) The chairman shall not cause any work to be done pursuant to subsection (1) except with the approval of the Minister and, in cases where the estimated cost of the work is over \$100,000, with the approval of the Lieutenant Governor in Council.

(3) The expenses paid by the Minister under subsection (1)

- (a) constitute a debt payable to the Crown by the person to whom the reclamation order was directed, and
- (b) where an invoice for the expenses is directed to the operator, may be recovered
 - (i) by any legal proceedings, or
 - (ii) by ordering the purchaser from the operator of any production from any mine, quarry, well or pit of the operator to pay to the Minister from the purchase money an amount not exceeding the money so paid under subsection (1) or (2) in lieu of paying the operator, and such payment by the purchaser operates as a discharge of the purchaser to pay the operator the same amount.

Reclamation of Abandoned Operations

44. (1) The Council may hold an inquiry in respect of any land where

- (a) prior to June 1, 1963, the land was held for purposes incidental to or in connection with
 - (i) the drilling, operation or abandonment of a well, or
 - (ii) the construction, operation or abandonment of a pipe line or battery, or
 - (iii) the opening up, operation or abandonment of a mine or quarry,

43. Recovery of funds expended by the Crown following non-compliance with a reclamation order.

44. Reclamation in cases of old operations that have been abandoned and where it is still possible to make the operator or operators responsible for the reclamation.

and the surface lease or right of entry order under which the land was held was surrendered or terminated prior to June 1, 1963;

- (b) prior to the commencement of this section, the land was held for purposes incidental to or in connection with the construction, operation or abandonment of a transmission line and the surface lease or right of entry order under which the land was held was surrendered or terminated prior to the commencement of this Act;
- (c) prior to the commencement of this section, the land was used or held for purposes incidental to or in connection with any kind of operation or activity enumerated in section 32, subsection (1), clauses (d) to (g) and the operation was abandoned or ceased to be conducted prior to the commencement of this section.

(2) Where an inquiry is held pursuant to subsection (1), the Council shall make a report regarding the condition of the land and its recommendations with respect to the work necessary to condition, maintain or reclaim the surface of the land.

(3) A report under subsection (2) shall be submitted by the chairman to the Minister who may, having regard to the report,

- (a) direct the Council to hold an inquiry under section 40 with a view to issuing a reclamation order, where the Minister is satisfied that the identity of the operator is known and that the operator is still resident in Alberta, owns land in Alberta or, in the case of a corporation, is still carrying on business in Alberta, or
- (b) in any other case, make an authorization under section 45.

(4) Where the Council holds an inquiry pursuant to a direction of the Minister under subsection (3), clause (a), the Council may

- (a) where it issues a reclamation order directed to one operator but it considers that the operator is not entirely responsible for the reclamation, shall specify the proportions in which the cost of completing the work required by the order is to be borne by the operator and the Government, or
- (b) in any case where it finds that two or more operators are wholly or partly responsible for the reclamation of the land, issue a reclamation order directed to those operators, but in that case the order shall also specify

- (i) the proportions in which the respective operators shall bear the cost of completing the work required by the order, if the Council finds the operators wholly responsible for the reclamation, or
- (ii) the proportions in which the respective operators and the Government shall bear the cost, if the Council finds that the operators are only partly responsible for the reclamation.

(5) An order under subsection (4), clause (a) or an order under subsection (4), clause (b) that requires the Government to bear a portion of the cost of reclamation is not valid unless the Minister consents to the order, and in giving his consent, the Minister may, without any further hearing or inquiry, direct the Council to vary the order as to the apportionment and issue a new order accordingly.

(6) Any new order made under subsection (5) may extend the date by which the work is to be completed.

45. (1) In any case to which section 44, subsection (3), clause (a) does not apply, the Minister, having regard to the report of the Council, may

- (a) in the case of unoccupied Crown land, authorize the performance of any work necessary to condition, maintain or reclaim the land, or
- (b) in the case of any other land, authorize the chairman to enter into negotiations on behalf of the Government with the owner or occupant or both, with a view to
 - (i) entering into an agreement enabling the Government to perform any work necessary to condition, maintain or reclaim the land, or
 - (ii) entering into an agreement under which the land may be reclaimed and developed for some other use, or
 - (iii) purchasing all or part of the land.

(2) An agreement referred to in subsection (1), clause (b), subclause (i) or (ii) may be executed on behalf of the Government by the Minister but no such agreement shall be executed unless the agreement has been approved by the Lieutenant Governor in Council.

(3) The Government shall bear the costs of performing any work pursuant to subsection (1), clause (a) and, except as otherwise provided therein, pursuant to any agreement referred to in subsection (1), clause (b), subclause (i) or (ii).

45. Reclamation in cases where no reclamation order can be issued under section 43, that is, where the Government bears most or all of the costs.

46. (1) Where the Council holds an inquiry under section 40 in respect of any land where

- (a) prior to the commencement of this section, the land was used for or held for purposes incidental to or in connection with the opening up, operation or abandonment of a mine, quarry, pit or disposal site or land fill site,
- (b) the mine, quarry, pit, waste disposal site or land fill site was abandoned or ceased to be operated to the commencement of this section, and
- (c) after the commencement of this section, the operation of the mine, quarry, pit, waste disposal site or land fill site is recommended by a person who was not the operator at the time of the abandonment or cessation of operation thereof,

the Council shall, in the event that it issues a reclamation order in respect of that land, specify in the order the proportions in which the cost of doing the work required by the order will be borne between the Government and the operator.

(2) In determining the proportion of the costs to be borne by the operator, the Council shall endeavor to make the apportionment in the same ratio that the area of land affected by the operator's operations bears to the area affected by the previous operations, unless in the opinion of the Council it is not practicable to do so or special circumstances exist.

(3) An order under this section is not valid unless the Minister consents to the order and in giving his consent, the Minister may, without any further hearing or inquiry, direct the Council to vary the apportionment and issue a new order accordingly.

(4) Any costs required to be paid by the Government under this section shall be paid from funds appropriated by the Legislature for that purpose.

47. (1) Where the Council holds an inquiry under section 40 in respect of any land that has been used for the purpose of conducting geophysical operations, whether before or after the commencement of this section, and the Council is satisfied that the surface disturbance resulting from the geophysical operations was caused by two or more operators, the Council shall, in the event that it issues a reclamation order in respect of that land, specify in the order the proportions in which the cost of doing the work required by the order will be borne by the operators or, subject to subsections (3) and (4), between the Government and the operator or operators.

(2) Where an operator who has been notified of an inquiry referred to in subsection (1) claims that some other

46. Apportionment of costs between the Government and the operator in cases of abandoned mines, pits, etc., that are re-opened after the commencement of the Act.

47. Apportionment of costs in cases where geophysical operations conducted by two or more operators affect the same land.

operator was wholly or partly responsible for the surface disturbance, the inquiry shall be adjourned and reconvened after the other operator has been notified of the reconvened inquiry.

(3) Where following an inquiry referred to in subsection (1) the Council finds that the surface disturbance was caused by two or more operators but the identity of any of those operators cannot be determined, the reclamation order shall apportion to the Government that portion of the costs of doing the work which would have otherwise been apportioned to the unidentified operator if his identity was known.

(4) Where it appears in an inquiry referred to in subsection (1) that the reclamation of the land carried out by any operator was done in accordance with regulations in force at the time but the reclamation order requires the doing of additional work to meet the standards prescribed pursuant to this Part, the reclamation order apportion the costs of doing the additional work to the Government.

(5) An order under this section that apportions part of the cost to the Government is not valid unless the Minister consents to the order and in giving his consent, the Minister may, without any further hearing or inquiry, direct the Council to vary the apportionment and make a new order accordingly.

(6) An apportionment of costs under this section shall be made on such basis as the Council considers just and reasonable in the circumstances.

(7) Any costs required to be paid by the Government shall be paid from funds appropriated by the Legislature for that purpose.

Reclamation by the Government in Special Cases

48. (1) Notwithstanding anything in this Act, the Council may after investigation make a report to the Minister in any case where

- (a) land to which this Part applies has been or is being seriously affected by surface disturbance,
- (b) the cause of the surface disturbance is of a natural origin or of an undetermined origin for which no person appears to be responsible, and
- (c) remedial work is required to condition, maintain or reclaim the land or to remove or minimize the cause of the surface disturbance.

(2) The Minister may, having regard to the report, authorize the Council to cause any remedial work to be done

48. The Minister may authorize reclamation work to be done in special cases where the land is being affected by surface disturbance of natural or unknown origin.

to condition, maintain or reclaim the land or to remove or minimize the cause of the surface disturbance.

(3) Any cost of work authorized by the Minister pursuant to subsection (2) shall be paid from funds appropriated by the Legislature for that purpose.

Reclamation Certificates

49. (1) Notwithstanding anything in any other Act or in any surface lease or right of entry order

- (a) no surrender of a surface lease is effective or binding on any person, and
- (b) no expropriation board shall order the termination of a right of entry order,

insofar as the surrender or termination relates to any interest of the owner until a reclamation certificate has been issued in respect of the land affected by the surrender or termination.

(2) Subsection (1), in so far as it relates to right of entry orders, applies only to

- (a) right of entry orders pertaining to transmission lines in effect after the commencement of this section, and
- (b) right of entry orders of any other kind, where the lease or order is in effect or on or after June 1, 1963.

(3) Notwithstanding subsection (1), an expropriation board may order the termination of a right of entry order without a reclamation certificate in any case

- (a) where the parties to the order have entered into a surface lease with respect to the land affected by the order and have requested the termination, or
- (b) where the land affected by the order has been acquired or expropriated by the Crown or by a municipal corporation, or
- (c) where the expropriation board is satisfied that the operator has not exercised his rights under the order.

(4) The surrender or termination of a surface lease or right of entry order as to all or any part of the land thereunder in respect of which a reclamation certificate is issued is not affected by any proceedings under section 55 to review the certificate or any appeal to the district court under this Part.

49. No surrender or termination will be effective unless and until a reclamation certificate has been issued. This is derived from section 12 of The Surface Reclamation Act but is extended to cover transmission lines.

50. At or following an inquiry regarding the issue of a reclamation certificate, the Council may, if it considers it necessary to do so, issue a reclamation order as to the land concerned.

51. (1) When the Council is of the opinion that the surface of the land in respect of which the inquiry was held is in satisfactory condition, the Council shall issue a reclamation certificate to the operator.

(2) A copy of the reclamation certificate issued under subsection (1) shall be mailed or delivered to the owner of the surface of the land and where the land is occupied by a person other than the owner, a copy of the reclamation certificate shall be mailed or delivered to the occupant.

52. (1) Where evidence is supplied that is sufficient in the opinion of the chairman to indicate that the owner or occupant, as the case may be, has consented to the surrender or termination of the surface lease or right of entry order, the chairman may, before an inquiry is held by the Council, issue a reclamation certificate.

(2) Where a reclamation certificate is issued pursuant to subsection (1), the Council may hold an inquiry with respect to the condition of the land referred to in the certificate and, at or following the inquiry, may issue a reclamation order in respect of the land concerned.

53. (1) Where the Council holds an inquiry respecting the issue of a reclamation certificate to the holder of an approval under Part 2 who has deposited security pursuant to the regulations under that Part and after the inquiry determines that

(a) the land appears to be in satisfactory condition, but

(b) additional time is required to determine whether the reclamation will be effective,

the Council shall make a report to the chairman to that effect and specifying its recommendation as to the period of additional time required to determine the effectiveness of the reclamation.

(2) Where the chairman receives a report under subsection (1) he shall either

(a) direct that a reclamation certificate be issued pursuant to section 51, or

(b) issue a reclamation certificate himself, in which case the certificate shall state the period of time

50. A reclamation order may issue as a result of any Council inquiry regarding the issue of a reclamation certificate.

51. The Council will issue its certificate where the land is in satisfactory condition.

52. Reclamation certificate before inquiry when surrender or termination has been consented to. Section 16 of The Surface Reclamation Act.

53. Reclamation certificates by the chairman in cases where additional time is needed to determine the effectiveness of the reclamation. These orders will be confined to cases where the operator has an approval under Part 2 and the certificate in these cases will result in the retention of all or part of the security deposit pursuant to section 29.

after which the Council will hold a further inquiry into the effectiveness of the reclamation.

(3) Where the chairman issues a reclamation certificate under subsection (2), clause (b) and the period of time specified in the certificate has expired, the Council shall as soon as possible thereafter hold an inquiry to decide whether or not the reclamation has been effective.

(4) Where the Council holds an inquiry under subsection (3), it shall decide either

- (a) that the reclamation has been effective, or
- (b) that the reclamation has not been effective, in which case it shall issue a reclamation order to the operator for the purpose of making the reclamation effective.

(5) A copy of a decision under subsection (4) shall be mailed to

- (a) the owner, the occupant, if any, and the operator, and
- (b) the Minister for the purposes of section 30, if the operator is the holder of an approval under Part 2 and security has been given in respect of the approval.

54. (1) Where, after the issue of a reclamation certificate pursuant to section 51, it is indicated that further work may be necessary to reclaim the surface of the land referred to in the certificate, the Council may hold an inquiry into the matter.

(2) Where, following the inquiry, the Council is of the opinion that further work is necessary to remedy conditions not apparent to the Council prior to the issue of certificate, the matter shall be reported to the chairman.

(3) The chairman, with the consent of the Minister, may cause such further work to be done to remedy conditions referred to in the report, and the cost of the work shall be paid by the Minister from funds appropriated by the Legislature for that purpose.

Review of Reclamation Certificate

55. (1) Where a review is requested by the owner or occupant or an operator within 30 days of the issue of the reclamation certificate, an inquiry shall be held to review the certificate by the following members of the Council:

- (a) one or more members appointed pursuant to *The Public Service Act* or by the Lieutenant Governor in

54. If a reclamation certificate has issued any further work will be done at the Crown's expense.

55. Review of reclamation certificate New.

Council but who were not involved in the issue of the reclamation certificate under review, and

(b) either

- (i) a member appointed by the regional planning commission, if the land is located within a regional planning area, or
- (ii) where the land is not located in a regional planning area, a member appointed by the Lieutenant Governor in Council who is an employee of the Provincial Planning Office and designated by the Director of Provincial Planning.

(2) Where an appeal is taken to the Council, it may

- (a) confirm the reclamation certificate, or
- (b) issue a reclamation order to the operator, specifying the time within which the work is to be completed, notwithstanding the previous issue of the reclamation certificate.

(3) Notice of the review shall be given to the operator, the owner and, where the land is occupied by a person other than the owner, to the occupant, in accordance with the regulations.

Appeals to the Court

56. (1) A person to whom an invoice for expenses paid under section 43 is mailed may appeal to the district court of the judicial district in which the land is situated.

(2) A person desiring to appeal shall, within 30 days of the date of mailing to him of the invoice for the expenses paid, file a notice of appeal with the clerk of the district court.

(3) The notice of appeal shall state

- (a) the grounds of appeal,
- (b) whether the appellant disputes liability for the whole or a part of the expenses paid, and
- (c) if the appellant disputes liability for a part only of the expenses paid, the part for which he disputes liability.

(4) Upon the filing of the notice of appeal all proceedings by the Crown with respect to the recovery of the expenses paid are stayed until the appeal has been disposed of or abandoned.

(5) The appellant shall, within 10 days of filing the notice of appeal, serve a copy thereof upon the secretary.

(6) The secretary shall, forthwith upon being served with the notice of appeal, cause to be transmitted to the clerk of the district court certified copies of the documents relating to the expenses paid.

56. Appeal to district court by a person directed to pay expenses under section **43**.

(7) The appeal shall be to the sittings of the district court immediately following receipt by the clerk of the district court of the certified copies of the documents.

(8) The court shall

- (a) hear and determine the matter of the appeal as a trial de novo,
- (b) determine whether the appellant shall pay for all or a part of the expenses paid, and
- (c) make any directions as to costs of the appeal that it considers just.

(9) A judgment under subsection (8) shall be served upon the chairman.

57. (1) An owner or occupant of the surface of land with respect to which a reclamation certificate has been issued under section 49 may appeal the issue of the certificate to the district court by filing a notice of appeal with the clerk of the district court for the judicial district in which the land is situated before the expiration of one year from the date of the making of the copy of the certificate to the applicant.

(2) An operator to whom a reclamation order is issued may appeal the issue of the order to the district court by filing a notice of appeal with the clerk of the district court of the judicial district in which the land concerned is situated before the expiration of 30 days from the date of the mailing or delivery of the order to the operator.

(3) Where a reclamation certificate was issued by the chairman pursuant to section 51 and following the inquiry under subsection (3) of that section the Council decides that the reclamation has been effective and there is no need to issue a conservation order, the owner or occupant of the surface of the land concerned may appeal that decision to the district court by filing a notice of appeal with the clerk of the district court before the expiration of 30 days from the date of the mailing of the copy of the Council's decision to the appellant.

(4) The notice of appeal shall state

- (a) the grounds of appeal;
- (b) where appropriate, the appellant's opinion of those actions that would constitute satisfactory reclamation;
- (c) where the appeal from a reclamation order relates to an apportionment of costs, the appellant's opinion of what would constitute a proper apportionment.

(5) The appellant shall, within 20 days of filing the notice of appeal, serve a copy thereof upon the secretary.

57. Appeal to district court from a reclamation certificate or reclamation order.

(6) The secretary shall forthwith upon being served with the notice of appeal, cause to be transmitted to the clerk of the district court certified copies of the documents relating to the issue of the reclamation certificate or reclamation order or the Council's decision, as the case may be.

(7) The appeal shall be to the sittings of the district court immediately following receipt by the clerk of the district court of the certified copies of the documents.

(8) The court shall

(a) hear and determine the matter of the appeal as a trial de novo,

(b) give judgment

(i) confirming that the condition of the land is satisfactory, or

(ii) directing any work on the land that the court considers proper,

and

(c) make any directions as to costs of the appeal that it considers just.

(9) A judgment under subsection (8) shall be served upon the chairman.

(10) Upon being served with a judgment under subsection (8), clause (b), subclause (ii) the chairman shall, if a reclamation certificate has already issued in respect of the land in question, cause the additional work directed by the court to be performed and the work so performed shall be deemed to be work done pursuant to section 54, subsection (3).

(11) Upon being served with a judgment under subsection (8), clause (b), subclause (i) in an appeal by an operator, the chairman shall cause a reclamation certificate to be issued to the operator where the appeal arose from the issue of a reclamation order and no reclamation certificate was previously issued.

58. The hearing of an appeal under section 56 or 57 may be adjourned from time to time as circumstances require.

59. No proceeding under this Act with respect to an appeal under section 56 or 57 shall be held invalid for informality if there has been a substantial compliance with the requirements of this Act.

60. By leave of a judge of the Appellate Division of the Supreme Court of Alberta, a person may appeal from the judgment of the district court under section 56 or 57 to the Appellate Division of the Supreme Court of Alberta and the rules and practice applicable to appeals to the Appellate Division apply.

58. Adjournments.

59. Self-explanatory.

60. There will be a further right of appeal to the Appellate Division.

Settlement of Disputes with Consent

61. (1) The Council may, with the consent of the parties concerned, hold a hearing and make an award with respect to a dispute between an operator and an owner or occupant as to the amount of compensation payable

- (a) for damage arising out of the operations of the operator to the land of the owner or occupant, or
- (b) for loss of or damage to livestock or other personal property of the owner or occupant arising out of operations of the operator, or
- (c) for time spent or expense incurred by an owner or occupant in recovering any of his livestock that have strayed due to the act or omission of the operator.

(2) Subsection (1), clause (a) does not apply where the damage occurred on land of the owner or occupant that is the subject of a right of entry order.

(3) An award made by the Council under this section is final and binding on the parties concerned.

PART 4

TRANSITIONAL, CONSEQUENTIAL AND COMMENCEMENT

62. (1) *The Mines and Minerals Act* is amended as to section 196 by striking out clause (a).

(2) Any order made under section 6, clause (b) of the Geophysical Regulations, filed as Alberta Regulation 26/59, shall be deemed to be an order under section 10 of this Act.

63. (1) *The Public Lands Act* is amended by striking out section 11.

(2) Any order or certificate issued under the regulations under section 11 of *The Public Lands Act* shall be deemed to be a reclamation order or reclamation certificate respectively under Part 3 of this Act.

64. (1) *The Surface Reclamation Act* is hereby repealed.

(2) Any proceeding commenced pursuant to *The Surface Reclamation Act* prior to the commencement of this section shall be continued and completed pursuant to this Act.

(3) Wherever a reference is made to the Surface Reclamation Council in any Act, regulation, order, certificate, direction, rule or by-law or in any contract, agreement or other instrument in force in Alberta, the reference shall be deemed to be to the Land Conservation and Reclamation Council.

61. Settlement of compensation for damages etc. caused by an operator, where the parties to the dispute consent to the Council having jurisdiction.

62. Amends chapter 238 of the Revised Statutes of Alberta 1970. Section 196(a) authorizes regulations governing geophysical operations on water covered areas: see section 11(e) of this Bill.

63. Amends chapter 297 of the Revised Statutes of Alberta 1970.

Section 11 of The Public Lands Act reads:

11. (1) With respect to public lands to which The Surface Reclamation Act does not apply, the Lieutenant Governor in Council may make regulations governing the conditioning, maintenance and reclamation of the surface of public lands that has been or is being held incidental to or in connection with

(a) the drilling, operation or abandonment of a well, or

(b) the construction, operation or abandonment of a pipe line or battery, or

(c) the opening up, operation or abandonment of a mine or quarry.

(2) The Lieutenant Governor in Council may give the Minister power to make such orders as are necessary for the purpose of enforcing the regulations.

(3) The regulations under this section may provide that upon failure of an operator to carry out an order made under the regulations, the Minister may cause the remedial work to be done and the costs incurred

(a) shall be paid by the Provincial Treasurer out of the General Revenue Fund, and

(b) constitute a debt payable to the Crown by the operator to whom the order was directed.

(4) In this section "operator" has the meaning given to it in The Surface Reclamation Act.

64. Repeal of chapter 356 of the Revised Statutes of Alberta 1970 and transitional provisions.

(4) An order issued under section 9 or 10 of *The Surface Reclamation Act* shall be deemed to be a reclamation order under Part 3 of this Act.

(5) A reclamation certificate issued under *The Surface Reclamation Act* shall be deemed to be a reclamation certificate issued under Part 3 of this Act.

(6) Any rule, direction or instrument except an order or certificate referred to in subsections (4) and (5), made pursuant to *The Surface Reclamation Act* that is in force upon the commencement of this subsection is deemed to be an order, rule, direction or instrument of the Land Conservation and Reclamation Council under this Act.

(7) Those persons appointed as members of the Surface Reclamation Council by the Lieutenant Governor in Council pursuant to section 5, subsection (2), clause (b) of *The Surface Reclamation Act* and holding office immediately prior to the commencement of this section become members of the Land Conservation and Reclamation Council under section 15, subsection (2), clause (d) of this Act.

(8) The appointments of all persons appointed by local authorities as members of the Surface Reclamation Council terminate upon the commencement of this subsection.

65. *The Surface Rights Act is amended as to section 25, subsections (4) and (5) by striking out the words "The Surface Reclamation Act" wherever they occur and by substituting the words "The Land Surface Conservation and Reclamation Act".*

66. This Act comes into force on a date or dates to be fixed by Proclamation.

65. Amends chapter 91 of the Statutes of Alberta, 1972.