

## No. 306

## AN ACT

To further amend the act, approved the thirty-first day of May, one thousand nine hundred forty-five (Pamphlet Laws 1198), entitled "An act providing for the conservation and improvement of land affected in connection with the mining of bituminous coal by the open pit mining method; regulating such mining; and providing penalties," by appropriating all funds derived from registration fees, forfeiture of bonds, cash, securities, and deposits \* in lieu of planting to the Department of Mines, to be used by the Secretary of Mines as herein provided, and transferring powers and duties from the Secretary of Forests and Waters to the Secretary of Mines.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 11, 12, 13, 14 and 18 of the act, approved the thirty-first day of May, one thousand nine hundred forty-five (Pamphlet Laws 1198), entitled "An act providing for the conservation and improvement of land affected in connection with the mining of bituminous coal by the open pit mining method; regulating such mining; and providing penalties," as amended by the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1730), are hereby further amended to read as follows:

Section 11. Within three years after the operation is completed or abandoned, the operator shall plant trees, shrubs or grasses upon the land affected by \*\*open pit mining: Provided, however, That the operator shall be relieved from the obligation to plant trees, shrubs or grasses required by this section if the Secretary of [Forests and Waters] *Mines* shall find as a fact that such planting is not reasonable, practicable or likely to succeed, or if the Secretary of [Forests and Waters] *Mines*, upon application by the land owner, approves the use of the land for a purpose other than the growing of trees, shrubs or grasses, or \*\*\*if the operator, in lieu of planting trees, shrubs or grasses, shall pay to the Secretary of [Forests and Waters] *Mines* sixty dollars (\$60.00) per acre of land affected by open pit mining. Funds received by the secretary in lieu of such planting shall be paid by him into the Bituminous Coal Open Pit Mining Reclamation Fund and used by him as herein-after prescribed for the use of funds derived from the forfeiture of bonds. When deemed necessary, the Secretary of [Forests and Waters] *Mines* may extend the period for planting trees, shrubs or grasses beyond the limitations of the period of time provided in this act. Such planting shall be done in accordance with a plan

"Bituminous Coal Open Pit Mining Conservation Act."

Sections 11, 12, 13, 14 and 18, act of May 31, 1945, P. L. 1198, as amended by act of May 23, 1949, P. L. 1730, further amended.

Planting of trees, shrubs or grasses.

Proviso.

\* "and" deleted from original.

\*\* "opening" in original.

\*\*\* "of" in original.

or procedure prescribed by the Secretary of [Forests and Waters] *Mines*. The trees, shrubs or grasses shall become the property of the landowner, unless the operator and the landowner agree otherwise. The operator shall plant only seeds, plants or seedlings, secured from a source approved by the Secretary of [Forests and Waters] *Mines*.

Filing of planting report.

Contents of report.

Section 12. When the planting is completed the operator shall file a planting report with the Secretary of [Forests and Waters] *Mines*, on a form to be prescribed and furnished by the secretary, giving the following information: (a) Identification of the operation; (b) The type of planting; (c) The date of planting; and (d) The area of land planted; and (e) Such other relevant information as the secretary may require. The Secretary of [Forests and Waters] *Mines* shall inspect the premises, either in person or by his duly authorized representative, within one (1) year after the planting report is filed. If the secretary finds that the planting has been done in a workmanlike manner and that the area reported has been planted in accordance with the prescribed plan or procedure, or if the operator has been relieved from the obligation to plant trees, shrubs or grasses as hereinabove provided, [the secretary shall certify such performance or relief from the obligation to plant trees, shrubs or grasses to the Department of Mines, and] the Secretary of Mines shall release the bond and collateral in proportion to the area [certified by the Secretary of Forests and Waters] *planted or relieved from planting*. Upon such release the State Treasurer shall immediately return to the operator the amount of cash or securities specified therein.

Planting similar area in lieu of land covered by bond.

Section 13. The operator may for reasonable cause and with the consent and approval of the Secretary of [Forests and Waters] *Mines*, plant a similar area of land previously affected by open pit mining by himself or any other operator in lieu of planting the particular land covered by the bond, and thereby be released from liability under the bond accordingly.

Objections to planting.

Section 14. If, upon inspection, the Secretary of [Forests and Waters] *Mines* does not approve the planting he shall notify the operator in writing, setting forth his reasons therefor. The operator may then take such steps as are required to remove the objections. Any operator or landowner who shall be aggrieved by any administrative regulation, directive or order of the Secretary of Mines [or of the Secretary of Forests and Waters] or any other administrative agency making application of the provisions of this act, may file a petition in the court of common pleas of the county where the land is located, alleging therein the action com-

Rights of operator or landowner.

Court proceedings.

plained of and praying for remedy thereof, and the said court shall proceed therein by rule or rules upon the proper administrative officer, body or authority to show cause why the petitioner should not have the remedy prayed for by his, her, or its petition. The court in such proceedings shall make such procedural orders as may be necessary for facilitating and expediting hearings and disposition of the matters complained of. From the decision of the said court of common pleas an appeal may be taken by either party to the Superior or Supreme Court of Pennsylvania as in other causes. Every such petition shall specify the petitioner's objection to the action of the administrative officer, body or authority, and such officer, body or authority, on or before the return day of the rule, shall make answer thereto and certify to the said court of common pleas, the record of the proceedings to which the petition refers. Such record shall include the testimony taken therein, the findings of fact, if any, of the officer, body or authority based upon such testimony, and a copy of all decisions and orders made by the said officer in the proceedings. The case shall be heard upon the record certified to the court as aforesaid. No additional testimony shall be taken before the court, but the court may, in proper cases, remit the record to the respondent for the taking of further testimony and from the record, the court may review, modify or affirm or make new findings of fact as well as decide the law applicable.

Section 18. All funds received by the Secretary of Mines from registration fees, and from forfeiture of bonds, and of cash deposits and securities, shall be held by the State Treasurer in a special fund, separate and apart from all other moneys in the State Treasury, to be known as the "Bituminous Coal Open Pit Mining Reclamation Fund," and shall be used by the Secretary of [Forests and Waters] *Mines* for the sole purpose of foresting or reclaiming land affected by open pit mining of bituminous coal, and for such purposes are hereby specifically appropriated to the Department of [Forests and Waters] *Mines*. Funds received from the forfeiture of bonds and collateral shall be expended by the Secretary of [Forests and Waters] *Mines* upon lands situated in the county in which the operation upon which liability was charged on the bond is located for back-filling or planting.

Deposit of funds in "Bituminous Coal Open Pit Mining Reclamation Fund" and disposition thereof.

APPROVED—The 19th day of August, A. D. 1953.

JOHN S. FINE