

degrees 12 minutes west 55.02 feet to a point at the southeasterly corner of land of the Nanticoke State Hospital; thence along land of the Nanticoke State Hospital and the westerly line of Grant Street north 17 degrees 17 minutes west 424.80 feet to the northeasterly corner of land of the Nanticoke State Hospital and the southwesterly intersection of Grant and Leemine Streets; thence across Grant Street north 61 degrees 38 minutes east 56.04 feet to the place of beginning, containing 23,613 square feet of land, more or less.

Being that portion of Grant Street between the southerly line of Leemine Street and the northerly line of Grove Street as laid out and plotted by the M. A. Hanna Company and recorded in Luzerne County Map Book, page 46, which was vacated by ordinance of the City Council of the City of Nanticoke May 4, 1953, and reverted to the M. A. Hanna Company.

Title to be approved by Department of Justice.

Appropriation.

Section 2. The land shall not be accepted until its title has been approved by the Department of Justice.

Section 3. The sum of one hundred dollars (\$100.00), or as much thereof as may be necessary, is appropriated to the Department of Property and Supplies for the payment of incidental expenses, including the completion of an abstract of title.

Act effective immediately.

Section 4. This act shall become effective immediately upon final enactment.

APPROVED—The 10th day of May, A. D. 1956.

GEORGE M. LEADER

No. 521

AN ACT

Amending the act of May thirty-one, 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," further regulating mining operations; requiring the filing of maps; changing provisions with respect to registration, bonds, backfill, overburden, enforcement of the act, appeals and penalties; and providing for the payment of fines into a special fund.

Bituminous Coal Open Pit Mining Conservation Act.

Section 4, act of May 31, 1945, P. L. 1198, amended May 23, 1949, P. L. 1730, further amended.

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

Section 1. Section four, act of May thirty-one, one thousand nine hundred forty-five (Pamphlet Laws 1198), known as the "Bituminous Coal Open Pit Mining Conservation Act," amended May twenty-three,

one thousand nine hundred forty-nine (Pamphlet Laws 1730), is amended to read:

Section 4. Before any operator shall hereafter engage in open pit mining of bituminous coal within the Commonwealth, he shall [register] *first apply for registration* with the Department of Mines of this Commonwealth by filing [a certificate], *by registered mail or by delivery in person*, on a form to be provided by the department, and giving information sufficient to identify the operator, and an estimate of the number of acres of land *in each mine inspection district* that the operator will affect by open pit mining during [one] *the registration year* [immediately following the date of filing]. *As a part of the application for registration, the operator shall furnish, in duplicate, a map or plan on a scale of not less than four hundred feet to the inch in a manner satisfactory to the Secretary of Mines, showing the location of the tract or tracts of land to be affected by the operation or operations contemplated. If after a registration certificate issues to an operator, the operator desires to affect a tract or tracts of land not included in the certificate, the operator shall, by registered mail or in person, so notify the Secretary of Mines at least two weeks prior to the commencement of operations. The Secretary of Mines shall promptly acknowledge, by registered mail, receipt of the application for registration. When the requirements of this act are met and no claims are outstanding under this act against the operator, or in the case of any corporation against any officer or director, a registration certificate shall issue forthwith.* Contemporaneously with and as a part of said registration *application*, the operator shall file with the Department of Mines a bond on a form to be prescribed and furnished by the department, payable to the Commonwealth and conditioned that the operator shall faithfully perform all of the requirements of this act. The bond shall be in the amount of three hundred dollars (\$300.00) per acre based upon the number of acres of land *in each mine inspection district*, which the operator estimates [that] will be affected by open pit mining during [one] *the registration year* [immediately thereafter]: Provided, That no bond shall be filed for less than three thousand dollars (\$3000.00). Liability under such bond shall be for the duration of open pit mining at each operation, and for a period of five years thereafter, unless released prior thereto as hereinafter provided. Such bond shall be executed by the operator and a corporate surety licensed to do business in the Commonwealth: Provided, however, That the operator may elect to deposit cash or negotiable bonds of the United States Government or the Commonwealth of Pennsylvania, the Pennsylvania

Registration for  
open pit mining.

Bond.

Proviso.

Proviso.

Proviso.

Turnpike Commission, the General State Authority, the State Public School Building Authority, or any municipality within the Commonwealth, with the department in lieu of a corporate surety. The cash deposit or market value of such securities shall be equal to the sum of the bond. The Secretary of Mines shall, upon receipt of any such deposit of cash or securities, immediately place the same with the State Treasurer, whose duty it shall be to receive and hold the same in the name of the Commonwealth, in trust, for the purposes for which such deposit is made. The State Treasurer shall at all times be responsible for the custody and safekeeping of such deposits. The operator making the deposit shall be entitled from time to time to demand and receive from the State Treasurer, on the written order of the Secretary of Mines, the whole or any portion of any securities so deposited, upon depositing with him, in lieu thereof, other negotiable securities of the classes herein specified having a market value at least equal to the sum of the bond, and also to demand, receive and recover the interest and income from said securities as the same becomes due and payable: Provided, however, That where securities, deposited as aforesaid, mature or are called, the State Treasurer, at the request of the operator, shall convert such securities into such other negotiable securities of the classes herein specified as may be designated by the operator. Contemporaneous with the filing of said registration certificate *application* and any renewal thereof, the operator shall pay to the department a filing fee of one hundred dollars (\$100.00). Should the area of land affected *in any mine inspection district* by open pit mining within the registration year exceed the estimate made in the registration certificate *application*, the operator shall, within thirty (30) days thereafter, file an [amended registration certificate and] additional bond. *Upon receipt of such bond, the Secretary of Mines shall promptly issue an amended certificate covering the additional acreage covered by such bond, but no filing fee shall be required in connection with the filing of such [amendment] additional bond. If the Secretary of Mines does not approve the application for registration, he shall promptly notify the operator, by registered mail, setting forth his reasons therefor. The operator may then take such steps as are required to remove the objections. Any operator who shall be aggrieved by any action of the Secretary of Mines under this section may proceed under the provisions of section fourteen of this act. If any operator who has filed an application for registration has not received a registration certificate or a notice from the Secretary of Mines as to why such application has not been approved within thirty days after the receipt of*

such application, he may engage in open-pit mining of bituminous coal and be deemed in compliance with all provisions of this act. The registration provisions of this section shall not apply to an operator registered under the provisions of the act of May thirty-one, one thousand nine hundred forty-five (Pamphlet Laws 1198), as amended, until the anniversary date of the operator's registration.

Section 2. The act is amended by adding, after section four, four new sections to read :

Section 4.1. On or before the third day of each month, every operator of a coal stripping operation shall furnish the mine inspector in whose district the operation is located, on a form provided by the Department of Mines, an accurate monthly report of coal produced, number of employes and days worked, and also a report of all fatal and nonfatal accidents for the previous month. An annual report shall be furnished to the mine inspector in whose district the operation is located on a form provided for that purpose not later than the twenty-fifth day of January each year for the preceding year.

Section 4.2. All coal stripping operations coming within the provisions of this act shall be under the exclusive jurisdiction of the Department of Mines and shall be conducted in compliance with such reasonable rules and regulations as may be deemed necessary by the Secretary of Mines for the health and safety of those persons engaged in the work. The Secretary of Mines through the mine inspectors shall have the authority and power to enforce the provisions of this act and the rules and regulations promulgated thereunder by him.

Section 4.3. Any mine inspector directed by the Department of Mines shall have the right to enter upon and inspect all stripping operations for the purpose of determining conditions of safety and for compliance with the terms of the registration certificate. A mine inspector shall have the authority to order the halting of mine operations in any case where safety regulations are being violated. Should an operator fail to comply with the requirements of the act, the mine inspector shall report the matter to the secretary who shall immediately notify the operator by registered mail of such failure. Unless the operator complies with the act within thirty (30) days from the receipt of such notice, the secretary may, after hearing and final determination, issue a cease and desist order requiring the operator to immediately cease mining at the operation in the mine inspection district where the violation was reported.

Act of May 31, 1945, P. L. 1198, amended by adding sections 4.1, 4.2, 4.3 and 4.4.

Monthly report.

Annual report.

Jurisdiction of coal stripping operations; rules and regulations; enforcement.

Right to inspect and authority of inspector.

Action in cases of failure of compliance.

Maps required annually.

*Section 4.4. If an operator continues to operate beyond one year, the mine inspector shall be furnished with a new map, at the end of each year of operation, on which is outlined the area affected and restored during the preceding year.*

Section 5, act of May 31, 1945, P. L. 1198, amended August 19, 1953, P. L. 1175, further amended.

Section 3. Section five of the act, amended August nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 1175), is amended to read:

Section 5. Operation Report and Backfilling.— Within thirty (30) days after starting the removal of overburden at each operation for the removal of coal by open pit mining, the operator shall file an operation report with the Department of Mines on a form to be prescribed and furnished by the secretary, giving the following information: (a) Name or number of the operation; (b) Location of the operation as to county and township and with reference to the nearest public road; (c) A description of the tract or tracts [by metes and bounds]; and (d) The name and address of the landowner or his duly authorized representative. *As part of the operations report, the operator shall file a map or plan on a scale of not less than four hundred (400) feet to the inch in a manner satisfactory to the Secretary of Mines, showing the location of the new tract or tracts of land to be affected by the operation or operations and not covered by the original registration application or reregistration application.*

The operator shall backfill the operation made by the open pit mining operation to a distance of [fifteen (15)] *seventy-five* feet beyond the boundary line of the right of way of any public highway *and to a distance of two hundred feet from any occupied dwelling house, unless released by owner thereof, public building, school, church and community or institutional building.* The backfilling *under this section* shall be done in such a manner as to insure lateral support [of a public highway] and to provide a slope having an angle not exceeding forty (40) degrees. The Department of Mines may specify the time within which it shall be completed in order to protect the public safety [and may require such backfilling to be done in part before the completion of the open pit mining operation].

Nothing contained in this section shall be construed to prohibit the relocation of any public road in the manner provided by law.

Sections 8, 9 and 10, act of May 31, 1945, P. L. 1198, amended May 23, 1949, P. L. 1730, further amended.

Annual charges against bond.

Section 4. Sections eight, nine and ten of the act, amended May twenty-three, one thousand nine hundred forty-nine (Pamphlet Laws 1730), are amended to read:

Section 8. Upon receipt of said completion report or annual report, the Secretary of Mines shall charge the land affected *in each mine inspection district* by

open pit mining against the bond filed by the operator at the time of registration at the rate of three hundred dollars (\$300.00) per acre. Should the land actually affected in any mine inspection district by open pit mining within the year exceed the estimate made at the time of registration, the operator shall, within thirty (30) days thereafter file an [amended certificate and] additional bond. Upon receipt of such bond, the Secretary of Mines shall promptly issue an amended certificate covering the additional acreage covered by such bond. If the land actually affected in any mine inspection district by open pit mining during the registration year is less than the estimate made by the operator in the registration certificate application, the secretary shall, at the end of the registration year, release the surplus of the bond and collateral upon which liability has not been charged as aforesaid: Provided, That no bond or collateral shall be released below three thousand dollars (\$3000.00) in the absence of complete compliance with the requirements of this act, and should there be a failure of complete compliance with the requirements of this act not less than the minimum bond in the amount of three thousand dollars (\$3000.00) shall be forfeited.

Proviso.

Section 9. If the operator continues to engage in open pit mining of bituminous coal beyond the period for which a certificate has been [filed] issued, the operator shall reregister with the Department of Mines, as hereinbefore provided in the case of the original registration: Provided, however, That the operator may [with the consent of the Secretary of Mines and the surety, if any,] apply [the] any amount of surplus [of the] bond filed for the preceding year upon bond requirement for the year for which he is reregistering, in lieu of a release of the surplus [as provided in section eight (8)].

Registration by operator.

Proviso.

Section 10. Within one year after the operation is completed, the operator shall place sufficient overburden or earth not containing reject coal or combustible material in the open cut to cover the exposed face of the unmined coal, which shall begin at least three feet above the top of the coal and shall extend to the bottom of the pit at an angle not to exceed forty-five (45) degrees, except where open pit mining cuts into active worked out or abandoned deep mine workings, the angle shall not exceed forty-five (45) degrees from the top of the high wall to the bottom thereof, and the peaks and ridges of spoilbanks shall be leveled and rounded off to such an extent as will permit the planting of trees, grasses or shrubs; for the purpose of this section only and for no other provisions of this act, highwall mechanical mining shall be considered as open-pit

Covering exposed face within one year after operation completed.

Proviso.

*mining*: Provided, however, That if the operator or other person desires to conduct drift mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate [drift] locations to be used for such purposes at which places it will not be necessary to so place overburden over the face of the coal until such drift mining or other use is completed, during which time that portion of the bond on file at the rate of three hundred dollars (\$300.00) per acre, or fraction thereof, applicable to the area designated, shall not be released. Such [drift] locations shall be described in the completion report and designated on the map attached thereto [ : Provided also, That if the operator desires to use the open cut as a haulageway for the removal of coal from other operations, the Secretary of Mines may postpone the covering of the exposed face of the unmined coal for the duration of such use].

Section 16, act of May 31, 1945, P. L. 1198, amended.

Mining bituminous coal by open pit mining without registration.

Section 5. Section sixteen of the act is amended to read:

Section 16. [Any] *Except as provided in section four of this act, any operator who proceeds to mine bituminous coal by the open pit mining method without having [registered] received a registration certificate, as herein provided, or who proceeds to mine bituminous coal by the open pit mining method without securing an amended registration certificate, or who fails to re-register and secure a new registration certificate, as herein provided, or who proceeds to mine bituminous coal by the open pit mining method without having furnished the proper bond, as herein provided, or who has intentionally filed false information in the application for a registration certificate, shall be guilty of a misdemeanor, and upon conviction, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5000.00). [The fine shall be payable to the county in which the violation occurs.] The fines shall be paid into and held by the State Treasurer in the "Bituminous Coal Open Pit Mining Reclamation Fund," provided for in section eighteen of this act, and shall be used by the Secretary of Mines for the sole purpose of foresting or reclaiming land affected by open pit mining of bituminous coal upon lands situated in the county in which the violation occurred.*

APPROVED—The 10th day of May, A. D. 1956.

GEORGE M. LEADER