WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED
Committee Substitute for
SENATE BILL NO. 83
(By Mr. [Signature] & Mr. [Signature])

PASSED March 9, 1974
In Effect ninety days from Passage

FILED IN THE OFFICE
EDGAR F. NEISKELL III
SECRETARY OF STATE
THIS DATE 3-19-74

3
AN ACT to amend and reenact sections two and three, article six-c, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section seven-a, all relating to authorizing the department of natural resources to reclaim abandoned coal refuse disposal piles; defining the terms “abandoned coal refuse disposal pile” and “reclamation of abandoned coal refuse disposal pile”; declaring reclamation of same to be for a public purpose; specifying the powers of the department which may be exercised in accomplishing reclamation.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article six-c, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section seven-a, all to read as follows:

ARTICLE 6C. COAL REFUSE DISPOSAL CONTROL ACT.

§20-6C-2. Definitions.

1 As used in this article:
2 (a) “Abandoned coal refuse disposal pile” means any
3 coal refuse disposal pile which is located on the surface
4 of either public or private property, or both, which
5 has not been operated in whole or in part since the first
day of January, one thousand nine hundred sixty-nine, and
the operator or owner of which cannot be determined, or
if the operator is known, he cannot be compelled to re-
claim the coal refuse disposal pile;
(b) "Coal refuse" means any waste coal, rock, shale,
slurry, culm, gob, boney, slate, clay and related materials,
associated with or near a coal seam, which are either
brought above ground or otherwise removed from a coal
mine in the process of mining coal, or which are separated
from coal during the cleaning or preparation operations;
(c) "Coal refuse disposal pile" means any deposit of
coal refuse on or buried in the earth and intended as per-
manent disposal or long-term storage of such material;
(d) "Director" means the director of the department
of natural resources;
(e) "Operate" means to enter upon a coal refuse dis-
posal pile, or part thereof, for the purpose of disposing,
depositing or dumping coal refuse thereon, or to employ
a coal refuse disposal pile for retarding the flow of or
the impoundment of water;
(f) "Operator" means any person operating any coal
refuse disposal pile, or part thereof; and
(g) "Reclamation of abandoned coal refuse disposal
piles" means any activity which operates to eliminate the
undesirable environmental effects or dangers to public
welfare and safety attributable to abandoned coal refuse
piles; including but not limited to activities designed to
extinguish any fire present in such piles, the prevention
of such fires, the abating of water and air pollution at-
tributable to such piles, the prevention of water accumu-
lation behind such piles or in such piles, the prevention
of erosion resulting from such piles, the covering of such
piles, the removal of such piles to an underground loca-
tion or for use in backfilling or landfilling, with soil or
with suitable soil conditioners, the revegetation of such
piles or any similar activity.
§20-6C-3. Legislative findings; purpose and intent of article;
declaration of public purpose.
The Legislature finds and hereby declares that the dis-
position of materials displaced in the mining of coal
creates coal refuse disposal piles which have in the past
and may in the future:
(a) Endanger the lives and properties of persons re-
siding in the hollows and valleys of the affected water-
sheds;
(b) Threaten streams, roads, schools and other public
properties and facilities;
(c) Result in the creation of an emergency situation
in which there can be no delay in taking remedial action
if resulting perils to persons and properties are to be al-
leviated; and
(d) Destroy or decrease the value of land upon which
a coal refuse disposal pile is located and the surrounding
environs for residential, agricultural, industrial, business
or recreational uses; counteract efforts of the state and
local governments within the state to conserve water,
soil and other valuable natural resources; and destroy or
impair the health, safety, welfare and property rights of
citizens of this state where proper reclamation of such
coal refuse disposal piles is not practiced.
It is the purpose and intent of the Legislature in enact-
ing this article to provide for the location, inspection and
evaluation of all coal refuse disposal piles and any asso-
ciated water impoundments in this state; for the deter-
mination of their degree of stability, safety, adequacy and
hazard to life and property; for remedial action necessary
and expedient to prevent, correct or abate danger to life
caused by any coal refuse disposal pile and any associaited
water impoundment; and for the reclamation of aban-
doned coal refuse disposal piles; and all of the foregoing
are hereby declared by the Legislature to be for a public
purpose.

§20-6C-7a. Reclamation of abandoned coal refuse disposal
piles; duties of the director; powers of the direc-
tor; rules and regulations.
(a) In addition to all other authority, powers, duties
and responsibilities granted or assigned to the department
of natural resources or its director or various divisions
under the provisions of this or any other article of this
chapter, the department of natural resources, acting by
and through its director, division of reclamation, or its chief of the division of reclamation, shall have the duty and responsibility to undertake the reclamation of abandoned coal refuse disposal piles located within this state. The director is hereby authorized to expend any funds which the Legislature may appropriate for the reclamation of abandoned coal refuse disposal piles, but the director shall first use such funds for matching purposes to obtain any federal funds which may be available for such purpose.

(b) The department of natural resources, acting by and through its director, or its division of reclamation and chief of the division of reclamation, upon approval of the director, is hereby authorized to exercise the following powers in implementing its duty and responsibility to reclaim abandoned coal refuse disposal piles located within this state:

1. To make any investigation or inspection necessary to implement or enforce the provisions of this article and to enter upon the public or private property of any coal refuse disposal pile owner as may be necessary to make such investigations or inspections. Such inspections or entries shall not be made until five days have elapsed after giving written notice to the pile owner or other persons in charge of such pile;

2. To promulgate in accordance with the provisions of chapter twenty-nine-a of this code a plan for the reclamation of abandoned coal refuse piles located within this state within fifteen months of the effective date of this act. Such plan shall establish priorities for action to be taken to reclaim said abandoned coal refuse piles. In promulgating such plan the director shall consider with regard to each area to be reclaimed the number of persons affected by hazards resulting from abandoned coal refuse piles in such area, the adverse environmental effects of such piles, the health and safety of persons residing or working in close proximity to such piles, the potential of such piles for recreational and industrial development, the potential of such piles for the sale or recycling of its constituent materials, the potential of eliminating surface subsidence damage by removing such piles
to a nearby abandoned mine or other underground location or for backfilling nearby surface mines, and the cost effectiveness of each potential project;

3. To promulgate and adopt, modify, repeal and enforce reasonable rules and regulations in order to implement the provisions of this section, which it shall do in accordance with the provisions of chapter twenty-nine-a of this code as if the provisions of said chapter were set forth in extenso herein;

4. To acquire by donation, agreement, lease or purchase such real and personal property, rights, lands easements and rights-of-way as are necessary to implement the provisions of this article;

5. To enter upon abandoned coal refuse piles with the permission of the owner thereof, if known, and to undertake pursuant to any agreement arrived at by negotiations with said owner the reclamation of abandoned coal refuse piles. Upon the completion of said reclamation, the department may accept any payments to the state made pursuant to agreements with the land owner. Funds received by the state for rendering such services shall be paid into the general revenues;

6. To cooperate and coordinate with agencies of the federal government, this state and counties and municipalities of this state to reclaim abandoned coal waste disposal piles;

7. To contract with, sell to, buy from and otherwise deal with private and public bodies providing such goods, services, machinery and equipment necessary to implement the provisions of this article, and in doing so comply with the provisions of article three, chapter five-a of this code;

8. To sell reclaimed land acquired or owned by the state subject to the provision or condition that the property will be reclaimed by the purchaser, or, if already reclaimed by the state, subject to the condition that the property will not be used for the purpose of coal waste disposal at any time thereafter;

9. To consult with the commissioner of highways, the director of the department of mines, the director of the
air pollution control commission, the director of the state
department of health, other state departments and agen-
cies, county and local governments, universities and col-
leges in the state and private businesses and industries
to develop ways to use abandoned coal refuse disposal
piles for highway construction, landfills, business, in-
dustrial, recreational and residential site development and
for other such useful purposes, and to take all actions,
which are legally available to him, to make abandoned
coal refuse disposal piles useful for such purposes; and
10. To exercise such other powers as it may have under
any other article or provision of this chapter in the im-
plementation of the provisions of this article. In no case
shall the powers set forth in this subsection be deemed
to authorize the department of natural resources, its di-
rector or any of its divisions, to condemn real estate solely
for the purpose of reclamation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. Daniel Party
Chairman Senate Committee

Clarence E. Christian
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Howard W. Carman
Clerk of the Senate

C. B. Blankenship
Clerk of the House of Delegates

V. T. Brotherton, Jr.
President of the Senate

Speaker House of Delegates

The within _______ approved _______ this the 18th _______day of __________, 1974.

Arthur A. Vance, Jr.
Governor