
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 868 Session of
1999

INTRODUCED BY S. H. SMITH, TANGRETTI, HERSHEY, ARGALL, CAWLEY,
GEIST, GEORGE, HALUSKA, HENNESSEY, HERMAN, LAUGHLIN, LEH,
MICOZZIE, ROSS, SAYLOR, SERAFINI, STABACK, STERN, SURRA,
TIGUE, TRELLO, YOUNGBLOOD, LEVDANSKY, STEELMAN, RAMOS, MAHER,
COLAFELLA, LESCOVITZ, FARGO AND DeWEESE, MARCH 10, 1999

SENATOR WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE, AS
AMENDED, OCTOBER 19, 1999

AN ACT

1 Providing immunity for certain persons who reclaim certain
2 abandoned lands or abate certain water pollution.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Environmental
9 Good Samaritan Act.

10 Section 2. Findings.

11 The General Assembly finds and declares as follows:

12 (1) This Commonwealth's long history of mining and the
13 extraction of oil and gas has left some lands and waters
14 unreclaimed and polluted.

15 (2) These abandoned lands and polluted waters are
16 unproductive, erode the tax base and are serious impediments
17 to the economic welfare and growth of this Commonwealth.

18 (3) The unreclaimed lands and polluted waters present a
19 danger to the health, safety and welfare of the people and
20 the environment.

21 (4) This Commonwealth does not possess sufficient
22 resources to reclaim all the abandoned lands and to abate the
23 water pollution.

24 (5) Numerous landowners, citizens, watershed
25 associations, environmental organizations and governmental
26 entities who do not have a legal responsibility to reclaim
27 the abandoned lands or to abate the water pollution are
28 interested in addressing these problems but are reluctant to
29 engage in such reclamation and abatement activities because
30 of potential liabilities associated with the reclamation and

1 abatement activities.

2 (6) It is in the best interest of the health, safety and
3 welfare of the people of this Commonwealth and the
4 environment to encourage reclamation of the abandoned lands
5 and abatement of water pollution.

6 Section 3. Purpose.

7 This act is intended to encourage the improvement of land and
8 water adversely affected by mining and oil and gas extraction,
9 to aid in the protection of wildlife, to decrease soil erosion,
10 to aid in the prevention and abatement of the pollution of
11 rivers and streams, to protect and improve the environmental
12 values of this Commonwealth and to eliminate or abate hazards to
13 health and safety. It is the intent of the General Assembly to
14 encourage voluntary reclamation of lands adversely affected by
15 mining or oil or gas extraction. The purpose of this act is to
16 improve water quality and to control and eliminate water
17 pollution resulting from mining or oil or gas extraction or
18 exploration by limiting the liability which could arise as a
19 result of the voluntary reclamation of abandoned lands or the
20 reduction and abatement of water pollution. This act is not
21 intended to limit the liability of a person who under existing
22 law is or may become responsible to reclaim the land or address
23 the water pollution or anyone who by contract, order or
24 otherwise is required to or agrees to perform the reclamation or
25 abate the water pollution.

26 Section 4. Definitions.

27 The following words and phrases when used in this act shall
28 have the meanings given to them in this section unless the
29 context clearly indicates otherwise:

30 ~~"Approved project." A reclamation project or water pollution~~ <—

1 ~~abatement project approved by the Department of Environmental~~
2 ~~Protection prior to completion.~~

3 "ABANDONED LANDS." LAND ADVERSELY AFFECTED BY MINERAL OR OIL <—
4 OR GAS EXTRACTION AND LEFT OR ABANDONED IN AN UNRECLAIMED OR
5 INADEQUATELY RECLAIMED CONDITION.

6 "Consideration." Something of value promised, given or
7 performed in exchange for something which has the effect of
8 making a legally enforceable contract. For the purpose of this
9 act, the term does not include a promise to a landowner to
10 repair damage caused by a reclamation project or water pollution
11 abatement project when the promise is made in exchange for
12 access to the land.

13 "Department." The Department of Environmental Protection of
14 the Commonwealth.

15 "Eligible land and water." Land and water adversely affected
16 by mining or oil or gas extraction and left or abandoned in an
17 unreclaimed or inadequately reclaimed condition or left
18 discharging water pollution and for which no person has a
19 continuing reclamation or water pollution abatement obligation.
20 The term shall also include land and water adversely affected by
21 mining or oil or gas extraction and left in an unreclaimed or
22 inadequately reclaimed condition or left discharging water
23 pollution for which the Department of Environmental Protection
24 has forfeited and collected the operators bonds and there is no
25 outstanding litigation concerning the bond forfeiture.

26 "Landowner." A person who holds either legal or equitable
27 interest in real property.

28 "Mineral." Any aggregate or mass of mineral matter, whether
29 or not coherent, which is extracted by mining, including, but
30 not limited to, limestone, dolomite, sand, gravel, slate,

1 argillite, diabase, gneiss, micaceous sandstone known as
2 bluestone, rock, stone, earth, fill, slag, iron ore, zinc ore,
3 vermiculite, clay and anthracite and bituminous coal.

4 "PERMITTED MINING ACTIVITY SITE." A SITE PERMITTED BY THE <—
5 DEPARTMENT OF ENVIRONMENTAL PROTECTION PURSUANT TO ONE OR MORE
6 OF THE FOLLOWING ACTS:

7 (1) THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN
8 AS THE CLEAN STREAMS LAW;

9 (2) THE ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS
10 THE SURFACE MINING CONSERVATION AND RECLAMATION ACT;

11 (3) THE ACT OF APRIL 27, 1966 (1ST SP.SESS., P.L.31,
12 NO.1), KNOWN AS THE BITUMINOUS MINE SUBSIDENCE AND LAND
13 CONSERVATION ACT;

14 (4) THE ACT OF SEPTEMBER 24, 1968 (P.L.1040, NO.318),
15 KNOWN AS THE COAL REFUSE DISPOSAL CONTROL ACT; OR

16 (5) THE ACT OF DECEMBER 19, 1984 (P.L.1093, NO.219),
17 KNOWN AS THE NONCOAL SURFACE MINING CONSERVATION AND
18 RECLAMATION ACT.

19 "Person." A natural person, partnership, association,
20 association members, corporation, political subdivision of the
21 Commonwealth, an agency, instrumentality or entity of Federal or
22 State Government or other legal entity recognized by law as the
23 subject of rights and liabilities.

24 "Project work area." That land necessary for a person to
25 complete a reclamation project or a water pollution abatement
26 project.

27 "Reclamation project." The restoration of eligible lands and
28 water to productive use by regrading and revegetating the land
29 to stable contours that blend in and complement the drainage
30 pattern of the surrounding terrain with no highwalls, spoil

1 piles or depressions to accumulate water and by plugging
2 abandoned oil or gas wells and removing production ~~of~~ OR storage <—
3 facilities, supplies and equipment from areas disturbed in
4 siting, drilling, completing and producing such wells.

5 "WATER POLLUTION." POLLUTION OF THE WATERS OF THIS <—
6 COMMONWEALTH AS DEFINED IN SECTION 1 OF THE ACT OF JUNE 22, 1937
7 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, WHICH WAS
8 CAUSED BY MINING ACTIVITIES OR OIL OR GAS EXTRACTION OR
9 EXPLORATION FOR THESE RESOURCES.

10 "Water pollution abatement facilities." The methods for
11 treatment or abatement of water pollution located on eligible
12 lands and water. These methods include, but are not limited to,
13 a structure, system, practice, technique or method constructed,
14 installed or followed to reduce, treat or abate such water
15 pollution.

16 "Water pollution abatement project." A plan for treatment or
17 abatement of water pollution located on eligible lands and
18 water. These plans include, but are not limited to, the
19 practices to be followed and the installation, operation and
20 maintenance of facilities to reduce, treat or abate such water
21 pollution.

22 ~~Section 5.— Consultation with department.~~ <—

23 ~~(a) General rule.— Landowners and persons planning a~~
24 ~~reclamation project or a water pollution abatement project may~~
25 ~~notify the department of their proposed project. If notified,~~
26 ~~the department shall review its files and advise whether any~~
27 ~~person is legally responsible for the unreclaimed land or the~~
28 ~~water pollution and whether the proposed project would be~~
29 ~~located on eligible lands and water.~~

30 ~~(b) Inventory of projects.— The department shall develop and~~

~~maintain a system to inventory and record each water pollution abatement project and each reclamation project which is submitted in writing, reviewed and approved by the department before each project is completed. The approved project inventory shall identify the land containing the project work area and each landowner and each person who, through participation in the reclamation project or water pollution abatement project, is entitled to the protections and immunities provided by this act.~~

~~(c) Nature of department approval and identification. For the purposes of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies), the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and the Environmental Hearing Board's regulation at 25 Pa. Code Ch. 1021 (relating to practice and procedures), the following shall not be an adjudication or an action:~~

~~(1) The department's approval or disapproval of a reclamation project or a water pollution abatement project.~~

~~(2) The department's identification or failure to identify in the approved project inventory land containing the project work area or a landowner or a person who participated in a reclamation project or in a water pollution abatement project.~~

~~(d) Presumptions.~~

~~(1) Every landowner and person identified in the approved project inventory shall be presumed to be covered by the protections and immunities provided by this act. This presumption may be rebutted by clear and convincing evidence that the landowner or person did not participate in an approved reclamation project or water pollution abatement project.~~

~~(2) A landowner or a person who participates in a
reclamation project or a water pollution abatement project
which is not an approved project is eligible for the
protections and immunities provided by this act but shall not
be entitled to the presumption provided by paragraph (1).~~

SECTION 5. ELIGIBILITY AND PROJECT INVENTORY. <—

(A) GENERAL RULE.--A LANDOWNER OR PERSON WHO VOLUNTARILY PROVIDES EQUIPMENT, MATERIALS OR SERVICES AT NO CHARGE OR AT COST FOR A RECLAMATION PROJECT OR A WATER POLLUTION ABATEMENT PROJECT IN ACCORDANCE WITH THIS ACT MAY BE IMMUNE FROM CIVIL LIABILITY, AND MAY RAISE THE PROTECTIONS AFFORDED BY THIS ACT IN ANY SUBSEQUENT LEGAL PROCEEDING WHICH IS BROUGHT TO ENFORCE ENVIRONMENTAL LAWS OR OTHERWISE IMPOSE LIABILITY. A LANDOWNER OR OTHER PERSON IS ONLY ELIGIBLE FOR THE PROTECTIONS AND IMMUNITIES PROVIDED BY SECTIONS 6 AND 7 IF A DETAILED WRITTEN PLAN OF THE PROPOSED RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT IS SUBMITTED TO AND APPROVED BY THE DEPARTMENT. THE PROJECT PLAN SHALL INCLUDE THE OBJECTIVE OF THE PROJECT AND A DESCRIPTION OF THE WORK THAT WILL BE PERFORMED TO ACCOMPLISH THE OBJECTIVE AND MUST IDENTIFY THE PROJECT LOCATION, PROJECT BOUNDARIES, THE PROJECT PARTICIPANTS AND THE OWNERS OF THE LAND.

(B) NOTICE.--UPON RECEIPT OF EACH PROJECT PLAN THE DEPARTMENT SHALL EITHER GIVE WRITTEN NOTICE BY CERTIFIED MAIL TO ADJACENT PROPERTY OWNERS AND RIPARIAN LAND OWNERS LOCATED DOWNSTREAM OF THE PROPOSED PROJECT OR WILL PROVIDE PUBLIC NOTICE OF THE PROPOSED PROJECT IN A NEWSPAPER OF GENERAL CIRCULATION, PUBLISHED IN THE LOCALITY OF THE PROPOSED PROJECT, ONCE A WEEK FOR FOUR CONSECUTIVE WEEKS AND SHALL GIVE PUBLIC NOTICE IN THE PENNSYLVANIA BULLETIN. THE PERSON PROPOSING THE PROJECT MAY ALSO PROVIDE PUBLIC NOTICE. ANY PERSON HAVING AN INTEREST WHICH MAY

1 BE ADVERSELY AFFECTED BY THE PROPOSED PROJECT HAS THE RIGHT TO
2 FILE WITH THE DEPARTMENT WRITTEN OBJECTION TO THE PROPOSED
3 PROJECT WITHIN 30 DAYS AFTER RECEIPT OF THE WRITTEN NOTICE OR
4 THE LAST PUBLICATION OF THE ABOVE NOTICE WHICH SHALL CONCLUDE
5 THE PUBLIC COMMENT PERIOD. THE DEPARTMENT SHALL PROVIDE TO THE
6 PERSON PROPOSING THE PROJECT A COPY OF EACH WRITTEN OBJECTION
7 RECEIVED DURING THE PUBLIC COMMENT PERIOD.

8 (C) ADVICE.--THE DEPARTMENT MAY PROVIDE ADVICE TO THE
9 LANDOWNER OR OTHER INTERESTED PERSON BASED UPON THE DEPARTMENT'S
10 KNOWLEDGE AND EXPERIENCE IN PERFORMING RECLAMATION PROJECTS AND
11 WATER POLLUTION ABATEMENT PROJECTS.

12 (D) DEPARTMENTAL REVIEW.--THE DEPARTMENT SHALL REVIEW EACH
13 PROPOSED RECLAMATION PROJECT AND APPROVE THE PROJECT IF THE
14 DEPARTMENT DETERMINES THE PROPOSED PROJECT:

15 (1) WILL RESULT IN THE REGRADING OF THE LAND TO STABLE
16 CONTOURS THAT BLEND IN AND COMPLEMENT THE DRAINAGE PATTERN OF
17 THE SURROUNDING TERRAIN WITH NO HIGHWALLS, SPOIL PILES OR
18 DEPRESSIONS TO ACCUMULATE WATER;

19 (2) WILL RESULT IN THE APPROPRIATE REVEGETATION OF THE
20 SITE; AND

21 (3) IS NOT LIKELY TO RESULT IN WATER POLLUTION AS
22 DEFINED IN SECTION 1 OF THE ACT OF JUNE 22, 1937 (P.L.1987,
23 NO.394), KNOWN AS THE CLEAN STREAMS LAW.

24 THE DEPARTMENT SHALL REVIEW EACH PROPOSED WATER POLLUTION
25 ABATEMENT PROJECT AND APPROVE THE PROJECT IF THE DEPARTMENT
26 DETERMINES THE PROPOSED PROJECT IS LIKELY TO IMPROVE THE WATER
27 QUALITY AND IS NOT LIKELY TO MAKE THE WATER POLLUTION WORSE.

28 (E) ADDITIONAL REVIEW.--THE DEPARTMENT SHALL REVIEW EACH
29 PROJECT PLAN IN ACCORDANCE WITH SECTION 11(B).

30 (F) PROJECT INVENTORY.--THE DEPARTMENT SHALL DEVELOP AND

1 MAINTAIN A SYSTEM TO INVENTORY AND RECORD EACH PROJECT, THE
2 PROJECT LOCATION AND BOUNDARIES, EACH LANDOWNER AND EACH PERSON
3 IDENTIFIED IN A PROJECT PLAN PROVIDED TO THE DEPARTMENT. THE
4 INVENTORY SHALL INCLUDE THE RESULTS OF THE DEPARTMENT'S REVIEW
5 OF THE PROPOSED PROJECT AND, WHERE APPLICABLE, INCLUDE THE
6 DEPARTMENT'S FINDINGS UNDER SECTION 11(B).

7 (G) APPEAL.--A PERSON AGGRIEVED BY A DEPARTMENT DECISION TO
8 APPROVE OR DISAPPROVE A RECLAMATION PROJECT OR A WATER POLLUTION
9 ABATEMENT PROJECT HAS THE RIGHT TO FILE AN APPEAL WITH THE
10 ENVIRONMENTAL HEARING BOARD IN ACCORDANCE WITH THE ACT OF JULY
11 13, 1988 (P.L.530, NO.94), KNOWN AS THE ENVIRONMENTAL HEARING
12 BOARD ACT, AND IN ACCORDANCE WITH THE ENVIRONMENTAL HEARING
13 BOARD'S RULES, 25 PA. CODE CH. 1021 (RELATING TO PRACTICE AND
14 PROCEDURES).

15 Section 6. Landowner liability limitation and exceptions.

16 (a) General rule.--Except as specifically provided in
17 subsections (b) and (c), a landowner who provides access to the
18 land, without charge or other consideration, which results in
19 the implementation of a reclamation project or a water pollution
20 abatement project:

21 (1) Shall be immune from liability for any injury or
22 damage suffered by the person implementing the reclamation
23 project or the water pollution abatement project while the
24 person is within the project work area.

25 (2) Shall be immune from liability for any injury to or
26 damage suffered by a third party which arises out of or
27 occurs as a result of an act or omission of a person
28 implementing a reclamation project or water pollution
29 abatement project which occurs during the implementation of
30 the reclamation project or the water pollution abatement

1 project.

2 (3) Shall be immune from liability for any injury to or
3 damage suffered by a third party which arises out of or
4 occurs as a result of a reclamation project or a water
5 pollution abatement project.

6 (4) Shall not be deemed to assume legal responsibility
7 for or incur liability for any pollution resulting from a
8 reclamation project or water pollution abatement project.

9 (5) Shall not be subject to a citizen suit filed
10 pursuant to section 601 of the act of June 22, 1937
11 (P.L.1987, No.394), known as The Clean Streams Law, for
12 pollution resulting from a reclamation project or water
13 pollution abatement project.

14 (6) Shall be immune from liability for the operation,
15 maintenance or repair of the water pollution abatement
16 facilities constructed or installed during the project unless
17 the landowner negligently damages or destroys the water
18 pollution abatement facilities or denies access to those
19 persons who operate, maintain or repair the water pollution
20 abatement facilities.

21 (b) Duty to warn.--A landowner shall warn a person
22 implementing a reclamation project or water pollution abatement
23 project of known, latent, dangerous conditions located on the
24 project work area which known, latent, dangerous conditions are
25 not the subject of the reclamation project or the water
26 pollution abatement project. Nothing in this act shall limit in
27 any way or affect a landowner's liability which results from the
28 landowner's failure to warn of such known, latent, dangerous
29 conditions.

30 (c) Exceptions to immunity.--Nothing in this act shall limit

1 in any way or affect a landowner's liability which results from
2 a reclamation project or water pollution abatement project and
3 which would otherwise exist:

4 (1) For injury or damage resulting from the landowner's
5 acts or omissions which are reckless or constitute gross
6 negligence or willful misconduct.

7 (2) Where the landowner charges an access fee or
8 requires other consideration before allowing access to the
9 land for the purpose of implementing a reclamation project or
10 water pollution abatement project or to operate, maintain or
11 repair water pollution abatement facilities constructed or
12 installed during a water pollution abatement project.

13 (3) For the landowner's unlawful activities.

14 (4) FOR DAMAGE TO ADJACENT LANDOWNERS OR DOWNSTREAM <—
15 RIPARIAN LANDOWNERS WHICH RESULTS FROM A RECLAMATION PROJECT
16 OR WATER POLLUTION ABATEMENT PROJECT WHERE WRITTEN NOTICE OR
17 PUBLIC NOTICE OF THE PROPOSED PROJECT WAS NOT PROVIDED.

18 Section 7. Project liability limitation and exceptions.

19 (a) General rule.--Except as specifically provided in
20 subsection (b), a person who ~~implements or participates in~~ <—
21 PROVIDES EQUIPMENT, MATERIALS OR SERVICES AT NO COST OR AT COST <—
22 FOR a reclamation project or a water pollution abatement
23 project:

24 (1) Shall be immune from liability for any injury to or
25 damage suffered by a person which arises out of or occurs as
26 a result of the water pollution abatement facilities
27 constructed or installed during the water pollution abatement
28 project.

29 (2) Shall be immune from liability for any pollution
30 emanating from the water pollution abatement facilities

1 constructed or installed during the water pollution abatement
2 project unless the person affects an area that is
3 hydrologically connected to the water pollution abatement
4 project work area and causes increased pollution by
5 activities which are unrelated to the implementation of a
6 water pollution abatement project.

7 (3) Shall not be deemed to assume responsibility for or
8 incur liability for the operation, maintenance and repair of
9 the water pollution abatement facilities constructed or
10 installed during the water pollution abatement project.

11 (4) Shall not be subject to a citizen suit under section
12 601 of the act of June 22, 1937 (P.L.1987, No.394), known as
13 The Clean Streams Law, for pollution emanating from the water
14 pollution abatement facilities constructed or installed
15 during the water pollution abatement project.

16 (b) Exceptions.--

17 (1) Nothing in this act shall limit in any way the
18 liability of a person who implements or participates in a
19 reclamation project or a water pollution abatement project
20 which liability results from the reclamation project or the
21 water pollution abatement project and which would otherwise
22 exist:

23 (i) For injury or damage resulting from the person's
24 acts or omissions which are reckless or constitute gross
25 negligence or willful misconduct.

26 (ii) For the person's unlawful activities.

27 (III) FOR DAMAGES TO ADJACENT LANDOWNERS OR
28 DOWNSTREAM RIPARIAN LANDOWNERS WHICH RESULT FROM A
29 RECLAMATION PROJECT OR A WATER POLLUTION ABATEMENT
30 PROJECT WHERE WRITTEN NOTICE OR PUBLIC NOTICE OF THE

<—

1 PROPOSED PROJECT WAS NOT PROVIDED.

2 (2) Nothing in this act shall limit in any way the
3 liability of a person who the department has found to be in
4 violation of any of the following acts:

5 (i) The act of May 31, 1945 (P.L.1198, No.418),
6 known as the Surface Mining Conservation and Reclamation
7 Act.

8 (ii) The act of April 27, 1966 (1st Sp.Sess.,
9 P.L.31, No.1), known as The Bituminous Mine Subsidence
10 and Land Conservation Act.

11 ~~(iii) The act of July 7, 1980 (P.L.380, No.97),~~ <—
12 ~~known as the Solid Waste Management Act.~~

13 ~~(iv) Any other Federal or State statute relating to~~
14 ~~environmental protection or to the protection of the~~
15 ~~public health, safety and welfare.~~

16 Section 8. Permits and zoning.

17 Nothing in this act shall be construed as waiving any
18 existing permit requirements or waiving any local zoning
19 requirements.

20 Section 9. Relationship to Federal and State programs.

21 The provisions of this act shall not prevent the Commonwealth
22 from enforcing requirements necessary or imposed by the Federal
23 Government as a condition to receiving or maintaining program
24 authorization, delegation, primacy or Federal funds.

25 Section 10. General permits.

26 If the department determines it will further the purposes of
27 this act, the department may issue a general permit for each
28 reclamation project or water pollution abatement project, which
29 general permit shall:

30 (1) Encompass all of the activities included in that

1 reclamation project or water pollution abatement project.

2 (2) Be issued in place of any required stream
3 encroachment, earth disturbance or national pollution
4 discharge elimination system permits.

5 Section 11. Exceptions.

6 (a) General rule.--Any person who under existing law shall
7 be or may become responsible to reclaim the land or treat or
8 abate the water pollution or any person who for payment or
9 consideration or who receives some other benefit through a
10 contract, or any person who through a consent order and
11 agreement or otherwise agrees or is ordered to perform or
12 complete reclamation or treat or abate water pollution as well
13 as a surety which provided a bond for the site shall not be
14 eligible for nor shall that person receive the benefit of the
15 protections and immunities available under this act.

16 (b) Projects near mining or coal refuse sites.--This act
17 shall not apply to a reclamation project or a water pollution
18 abatement project that is located adjacent to, hydrologically
19 connected to or in close proximity to a site permitted under the
20 act of May 31, 1945 (P.L.1198, No.418), known as the Surface
21 Mining Conservation and Reclamation Act, the act of April 27,
22 1966 (1st Sp.Sess., P.L.31, No.1), known as The Bituminous Mine
23 Subsidence and Land Conservation Act, the act of September 24,
24 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal
25 Control Act, or the act of December 19, 1984 (P.L.1093, No.219),
26 known as the Noncoal Surface Mining Conservation and Reclamation
27 Act, unless:

28 (1) The reclamation project or water pollution abatement
29 project is submitted to the department in writing before the
30 project is started.

1 (2) The department finds:

2 (i) The reclamation project or the water pollution
3 abatement project will not adversely affect the
4 permittee's obligations under the permit and the
5 applicable law.

6 (ii) The activities on the project work area cannot
7 be used by the permittee to avoid the permittee's
8 reclamation or water pollution treatment or abatement
9 obligations.

10 (3) The department issues a written notice of its
11 findings and the approval of the project.

12 (c) Projects in lieu of civil penalties.--This act shall not
13 apply to a reclamation project or a water pollution abatement
14 project that is performed in lieu of paying civil penalties.

15 (d) Land Recycling and Environmental Remediation Standards
16 Act.--The act of May 19, 1995 (P.L.4, No.2), known as the Land
17 Recycling and Environmental Remediation Standards Act, DOES NOT <—
18 APPLY to reclamation projects or water pollution abatement
19 projects implemented under this act.

20 SECTION 12. WATER SUPPLY REPLACEMENT. <—

21 A PUBLIC OR PRIVATE WATER SUPPLY AFFECTED BY CONTAMINATION OR
22 THE DIMINUTION CAUSED BY THE IMPLEMENTATION OF A RECLAMATION
23 PROJECT OR THE IMPLEMENTATION OF A WATER POLLUTION ABATEMENT
24 PROJECT SHALL BE RESTORED OR REPLACED BY THE DEPARTMENT WITH AND
25 ALTERNATE SOURCE OF WATER ADEQUATE IN QUANTITY AND QUALITY FOR
26 THE PURPOSES SERVED BY THE WATER SUPPLY.

27 SECTION 13. ORPHAN OIL AND GAS WELLS.

28 A RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT
29 SHALL NOT BE IMPLEMENTED IN A MANNER WHICH WILL LIMIT ACCESS TO
30 AN ORPHAN GAS WELL OR AN ORPHAN OIL WELL.

1 Section ~~12~~ 14. Regulations. <—

2 The department may promulgate rules and regulations necessary
3 to implement the provisions of this act.

4 Section ~~13~~ 15. Repeal. <—

5 All acts and parts of acts are repealed insofar as they are
6 inconsistent with this act.

7 Section ~~14~~ 16. Effective date. <—

8 This act shall take effect in 60 days.