

**27—50.170(207) Liens.**

**50.170(1)** The division shall place a lien against land reclaimed if the reclamation results in an increase in the fair market value based on the pre- and postreclamation appraisals.

*a.* A lien shall not be placed against the property of a surface owner who acquired title prior to May 2, 1977, and who did not consent to, participate in, or exercise control over the mining operations which necessitated the reclamation work.

*b.* The division may waive the lien if the cost of filing it, including indirect costs, exceeds the increase in fair market value as a result of reclamation activities.

*c.* The lien may be waived if the reclamation work performed on private land primarily benefits health, safety or environmental values of the greater community or area in which the land is located, or if reclamation is necessitated by an unforeseen occurrence and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the occurrence.

**50.170(2)** If a lien is to be filed, the division shall, within six months after completion of the reclamation work, file a statement in the district court of the county for the lands to be liened. Such statement shall consist of an account of moneys expended for the reclamation work, together with notarized copies of the appraisals obtained. The amount reported to be the increase in value of the property shall constitute the amount of the lien recorded and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

**50.170(3)** Within 60 days after the lien is filed by the division, the landowner may bring civil action in the district court of the county in which the reclaimed land lies to determine the increase in market value of the land as a result of reclamation work. Any aggrieved party may appeal in the manner provided by law.