

1993 FINAL REPORT
of the
JOINT LEGISLATIVE STUDY COMMITTEE ON
MINED LAND RECLAMATION

Presented to:

Speaker of the House Mark Killian
President of the Senate John Greene

December 27, 1993

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 - December 16, 1993

JOINT LEGISLATIVE STUDY COMMITTEE ON

MINED LAND RECLAMATION

Background

The Joint Legislative Study Committee on Mined Land Reclamation was established as an ad hoc committee by Speaker of the House, Mark Killian and President of the Senate, John Greene in August, 1993 to examine and make recommendations on the reclamation of mined land in Arizona and the issue of abandoned mines. The committee was directed to report its findings and recommendations to the Speaker and President by December 15, 1993.

The committee first met on October 7, 1993 and was given an overview of the state mining industry from the Arizona Department of Mines and Mineral Resources (ADMMR) and the Arizona Mining Association (AMA). The committee also heard from the Arizona Department of Environmental Quality (ADEQ), the State Land Department and the State Mine Inspector regarding existing mining regulations. At the conclusion of the October 7 meeting, co-chairman, Senator Jim Buster appointed a subcommittee consisting of Senator Buster as chair, Senator Phillips, Senator Hardt, Representative Conner, Representative Brown and Representative Kaites. The subcommittee was charged with reporting its recommendations back to the full committee by early December.

The first meeting of the subcommittee was held on November 15, 1993 and at that time, the committee was presented with a state mined land reclamation proposal from the Arizona Mining Association (AMA), which was discussed by the committee. The proposal would have required ADEQ to administer the program.

The second meeting of the subcommittee was held on December 16, 1993, at which time the subcommittee reviewed and discussed legislation drafted by Legislative Council based on the proposal submitted by the AMA at the previous meeting. The one primary difference was that the mined land reclamation program was to be administered by the Arizona Department of Mines and Mineral Resources, instead of ADEQ. (Attachment A). The subcommittee also considered a proposal from the State Mine Inspector (on file in the Secretary of the Senate's Office). The subcommittee recommended the AMA proposal, including the changes set forth in the memo to the subcommittee dated 12/16/93.

The full committee met on December 16, 1993. In addition to considering the report of the subcommittee, the full committee considered a proposal for a state mined land reclamation program submitted by the Sierra Club and the Arizona League of Conservation Voters. The full committee approved the subcommittee's recommendations and further recommended that the administrative and enforcement agency should be determined in the legislative process.



Arizona State Senate

Phoenix, Arizona

JOHN GREENE
PRESIDENT

August 5, 1993

The Honorable Jim Buster
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

Dear Senator Buster:

I have the pleasure of informing you that Speaker Killian and I have agreed to form an ad hoc Joint Legislative Study Committee on Mined Land Reclamation, and I have appointed you to serve as Co-Chair. The Committee shall be charged with studying the issue of reclamation of mined land in Arizona. The Committee may further give consideration to the subject of abandoned mines and shall make recommendations to the President of the Senate and the Speaker of the House of Representatives by December 15, 1993, after which time the Committee shall be terminated.

Speaker Killian and I have appointed the following members to the Committee:

Senator Buster, Co-Chair
Senator Phillips
Senator Chesley
Senator Arzberger
Senator Hardt

Representative Keegan, Co-Chair
Representative Kaites
Representative Conner
Representative Brown
Representative Clark

Thank you for your willingness to serve on this Committee. I look forward to your report.

Sincerely,

John Greene
President of the Senate

JG:mkm

cc: Speaker Mark Killian, Arizona House of Representatives
Susan McJunkin, Senate Research Analyst



JOINT LEGISLATIVE STUDY COMMITTEE

on

MINED LAND RECLAMATION

MEMBERSHIP:

SENATE MEMBERS:

Senator Jim Buster, Co-Chair
Senator Gus Arzberger
Senator Larry Chesley
Senator A.V. "Bill" Hardt
Senator Ed Phillips

HOUSE OF REPRESENTATIVE MEMBERS:

Representative John Keegan, Co-Chair
Representative Jack Brown
Representative Harry Clark
Representative Pat Conner
Representative John Kaites

MEETING DATES

Thursday, October 7, 1993

Wednesday, November 15, 1993
Subcommittee

Thursday, December 16, 1993
Subcommittee

Thursday, December 16, 1993

FINAL RECOMMENDATIONS

OF

THE JOINT LEGISLATIVE STUDY COMMITTEE ON

MINED LAND RECLAMATION

Recommendation:

Introduce legislation to establish a state Mined Land Reclamation Program, to be administered and enforced by a state agency yet to be determined. The program should provide for the reclamation of surface disturbances on private land created by new and existing hard rock mining and exploration operations. The program should require the filing a reclamation plan to be approved by the state, which should include feasible reclamation measures to be undertaken by the owner or operator of the mining unit or exploration operation. The program should also require the filing of a financial assurance mechanism by the owner or operator in order to insure the timely completion of reclamation measures. (See Attachments A and B)

NOTE: All proposals and informational materials submitted to the committee or subcommittee are on file with the Secretary of the Senate.

MINED LAND RECLAMATION ACT

(12/15/93)

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DRAFT

Rough Draft
Folder #0529
12/15/93 DMT/dt

REFERENCE TITLE: mined land reclamation act

State of Arizona
Senate
Forty-first Legislature
Second Regular Session
1994

S. B. _____

Introduced by _____

AN ACT

AMENDING TITLE 27, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 5; RELATING TO MINES.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 27, Arizona Revised Statutes, is amended by adding
3 chapter 5, to read:

4 CHAPTER 5

5 MINED LAND RECLAMATION

6 ARTICLE 1. ADMINISTRATION

7 27-901. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "BOARD" MEANS THE BOARD OF GOVERNORS OF THE DEPARTMENT.

10 2. "DEPARTMENT" MEANS THE DEPARTMENT OF MINES AND MINERAL
11 RESOURCES.

12 3. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

13 4. "EXISTING EXPLORATION OPERATION" MEANS AN EXPLORATION OPERATION
14 THAT IS ONGOING AS OF THE EFFECTIVE DATE OF THIS SECTION.

15 5. "EXISTING MINING UNIT" MEANS A MINING UNIT, OTHER THAN A NEW
16 MINING UNIT, THAT CONTINUED OPERATIONS AFTER JANUARY 1, 1986.

17 6. "EXPLORATION OPERATIONS" MEANS ACTIVITIES THAT CREATE
18 DISTURBANCES ON THE SURFACE OF THE EARTH OUTSIDE A MINING FACILITY, THAT
19 ARE CONDUCTED TO DETERMINE THE PRESENCE, LOCATION, EXTENT, DEPTH OR GRADE
20 OF MINERALS AND THAT INCLUDE CONSTRUCTING ACCESS ROADS AND DRILL PADS.

21 7. "INACTIVE MINING UNIT" MEANS A MINING UNIT THAT HAS NOT BEEN
22 OPERATED AFTER JANUARY 1, 1986 AND FOR WHICH THERE IS A CURRENT
23 IDENTIFIABLE OWNER OR OPERATOR OTHER THAN THE FEDERAL OR STATE GOVERNMENT.

1 8. "MAINTENANCE" MEANS AN ACTIVITY TO PRESERVE OR REPAIR THE
2 FUNCTION OF PREVIOUSLY DISTURBED LAND THAT DOES NOT EXPAND THE AREA OF THE
3 DISTURBANCE, INCLUDING GRADING ROADS, REPAIRING BERMS OR DAMS AND DREDGING
4 SEDIMENTATION BASINS.

5 9. "MINERAL" MEANS ANY METALLIFEROUS MATERIAL EXTRACTED FROM THE
6 EARTH, INCLUDING GOLD, SILVER, COPPER, MOLYBDENUM, ZINC AND LEAD AND OTHER
7 MATERIALS THAT ARE USED AS FEEDSTOCKS IN PRODUCING METALLIFEROUS
8 MATERIALS.

9 10. "MINING FACILITY" MEANS PROPERTY THAT IS OWNED, OPERATED OR
10 MANAGED BY THE SAME PERSON TO DEVELOP, MINE, CONCENTRATE OR LEACH MINERALS
11 AND ASSOCIATED MINERAL RECOVERY ACTIVITIES, BUT DOES NOT INCLUDE SMELTING,
12 REFINING, FABRICATING OR OTHER METAL PROCESSING FACILITIES AND MATERIALS
13 ASSOCIATED WITH THOSE FACILITIES. PROPERTY THAT IS NOT CONTIGUOUS BUT
14 WITHIN THE SAME GEOGRAPHICAL AREA AND OPERATED AS A SINGLE MINING COMPLEX
15 IS CONSIDERED TO BE A SINGLE MINING FACILITY.

16 11. "MINING UNIT" MEANS AN INDIVIDUAL PORTION OF A MINING FACILITY
17 THAT ENCOMPASSES ONE OR MORE SURFACE DISTURBANCES.

18 12. "NEW EXPLORATION OPERATION" MEANS AN EXPLORATION OPERATION THAT
19 BEGINS AFTER THE EFFECTIVE DATE OF THE INITIAL RULES ADOPTED BY THE BOARD
20 PURSUANT TO THIS CHAPTER.

21 13. "NEW MINING UNIT" MEANS A MINING UNIT AT WHICH SURFACE
22 DISTURBANCES BEGIN AFTER THE EFFECTIVE DATE OF THE INITIAL RULES ADOPTED
23 BY THE BOARD PURSUANT TO THIS CHAPTER.

24 14. "RECLAMATION" MEANS MEASURES THAT ARE TAKEN ON SURFACE
25 DISTURBANCES AT EXPLORATION OPERATIONS AND MINING UNITS TO ACHIEVE
26 STABILITY AND SAFETY CONSISTENT WITH POST-MINING LAND USE OBJECTIVES
27 SPECIFIED IN THE RECLAMATION PLAN.

28 15. "SOIL" MEANS TOPSOIL, SUITABLE SUBSTRATA OR OTHER PLANT GROWTH
29 MEDIA THAT WILL SUSTAIN VEGETATION.

30 16. "STABILITY" MEANS THE CONDITION OF LAND WITH RESPECT TO ITS
31 EROSION POTENTIAL AND ABILITY TO WITHSTAND SEISMIC ACTIVITY.

32 17. "SURFACE DISTURBANCE" MEANS CLEARING, COVERING OR MOVING LAND BY
33 MEANS OF MECHANIZED EQUIPMENT FOR MINERAL EXPLORATION, DEVELOPMENT AND
34 PRODUCTION PURPOSES, BUT DOES NOT INCLUDE SURVEYING, ASSESSMENT AND
35 LOCATION WORK, SEISMIC WORK, MAINTENANCE AND OTHER SUCH ACTIVITIES THAT
36 CREATE A DE MINIMIS DISTURBANCE.

37 27-902. Mined land reclamation section in department of
38 mines and mineral resources; integration and
39 coordination of programs and activities

40 A. THE BOARD SHALL ESTABLISH A MINED LAND RECLAMATION SECTION IN
41 THE DEPARTMENT OF MINES AND MINERAL RESOURCES AND EMPLOY STAFF WHO HAVE
42 THE NECESSARY AND APPROPRIATE EXPERIENCE IN MINING AND RECLAIMING MINED
43 LANDS.

44 B. THIS CHAPTER DOES NOT REPLACE OR DUPLICATE PROVISIONS OF TITLE
45 49 THAT REGULATE EXPLORATION AND MINING OPERATIONS TO PROTECT PUBLIC
46 HEALTH AND THE ENVIRONMENT.

47 C. THE BOARD SHALL INTEGRATE ALL PROGRAMS ADMINISTERED BY THE
48 DEPARTMENT THAT APPLY TO EXPLORATION OPERATIONS AND MINING FACILITIES FOR

1 PURPOSES OF ADMINISTRATION AND ENFORCEMENT AND AVOID REDUNDANT,
2 INCONSISTENT OR CONTRADICTORY RECLAMATION, INSPECTION, ADMINISTRATION,
3 ENFORCEMENT AND FINANCIAL ASSURANCE REQUIREMENTS.

4 D. THE REQUIREMENTS OF A RECLAMATION PLAN UNDER THIS CHAPTER, A
5 CLOSURE PLAN FOR THE SAME MINING UNIT REQUIRED UNDER TITLE 49, CHAPTER 2,
6 ARTICLE 3 AND OTHER PROVISIONS AND REQUIREMENTS OF THIS TITLE AND TITLE
7 49, INCLUDING FINANCIAL ASSURANCE REQUIREMENTS, SHALL NOT BE REDUNDANT,
8 INCONSISTENT OR CONTRADICTORY. THIS CHAPTER DOES NOT SUPERSEDE THE
9 CLOSURE PLAN REQUIREMENTS OF TITLE 49, CHAPTER 2, ARTICLE 3.

10 27-903. Agreements for coordination with other
11 governmental agencies and landowners

12 THE BOARD MAY ENTER INTO AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7,
13 ARTICLE 3 WITH THE STATE LAND DEPARTMENT, UNITED STATES BUREAU OF LAND
14 MANAGEMENT, UNITED STATES FOREST SERVICE AND OTHER AGENCIES THAT MANAGE
15 PUBLIC LANDS AND TAKE OTHER APPROPRIATE MEASURES TO COORDINATE THE REVIEW
16 AND APPROVAL OF RECLAMATION PLANS, INCLUDING DESIGNATING A LEAD AGENCY FOR
17 RECLAMATION PLAN REVIEW AND ACTION. THE BOARD SHALL AVOID REDUNDANT,
18 INCONSISTENT OR CONTRADICTORY RECLAMATION, INSPECTION, ADMINISTRATION,
19 ENFORCEMENT AND FINANCIAL ASSURANCE REQUIREMENTS.

20 27-904. Rules

21 NOT LATER THAN DECEMBER 31, 1995 THE BOARD SHALL ADOPT RULES
22 CONSISTENT WITH THIS CHAPTER FOR THE RECLAMATION OF SURFACE DISTURBANCES
23 AT EXPLORATION OPERATIONS AND MINING UNITS AND FOR THE ADMINISTRATION OF
24 THIS CHAPTER.

25 ARTICLE 2. GENERAL REGULATORY PROVISIONS

26 27-921. Surface disturbances created by new exploration
27 operation or mining unit

28 AN OWNER OR OPERATOR OF A NEW EXPLORATION OPERATION OR NEW MINING
29 UNIT SHALL NOT CREATE A SURFACE DISTURBANCE OF MORE THAN FIVE CONTIGUOUS
30 ACRES UNTIL A RECLAMATION PLAN AND FINANCIAL ASSURANCE MECHANISM FOR THE
31 EXPLORATION OPERATION OR MINING UNIT ARE APPROVED BY THE DIRECTOR OR ARE
32 OTHERWISE AUTHORIZED BY THIS CHAPTER.

33 27-922. Surface disturbances created by existing
34 exploration operation or mining unit;
35 extension; continuing operations

36 A. AN OWNER OR OPERATOR OF AN EXISTING EXPLORATION OPERATION OR
37 EXISTING MINING UNIT WITH SURFACE DISTURBANCES OF MORE THAN FIVE
38 CONTIGUOUS ACRES SHALL SUBMIT A RECLAMATION PLAN WITHIN ONE YEAR AFTER THE
39 EFFECTIVE DATE OF THE INITIAL RULES ADOPTED BY THE BOARD PURSUANT TO THIS
40 CHAPTER.

41 B. AN OWNER OR OPERATOR MAY PETITION THE DIRECTOR FOR AN EXTENSION
42 OF TIME TO SUBMIT A RECLAMATION PLAN. THE DIRECTOR SHALL GRANT THE
43 EXTENSION ON A SHOWING OF GOOD CAUSE, INCLUDING THE NEED TO COORDINATE THE
44 PREPARATION AND SUBMISSION OF A RECLAMATION PLAN WITH AN AQUIFER
45 PROTECTION PERMIT APPLICATION UNDER TITLE 49, CHAPTER 3, ARTICLE 2 OR WITH
46 OTHER PERMITS AND APPROVALS REQUIRED FOR THE EXPLORATION OPERATION OR
47 MINING UNIT.

1 C. THE OWNER OR OPERATOR OF AN EXISTING EXPLORATION OPERATION OR
2 EXISTING MINING UNIT MAY CONTINUE OPERATIONS, INCLUDING CREATING SURFACE
3 DISTURBANCES, UNTIL THE DIRECTOR TAKES FINAL ACTION ON THE RECLAMATION
4 PLAN AND FINANCIAL ASSURANCE MECHANISM.

5 D. THE RECLAMATION OF SURFACE DISTURBANCES CREATED IN WHOLE OR IN
6 PART BEFORE THE EFFECTIVE DATE OF THIS CHAPTER AND THE RULES ADOPTED
7 PURSUANT TO THIS CHAPTER MAY PRESENT SPECIAL TECHNICAL AND ECONOMIC
8 CONSTRAINTS THAT ARE NOT ENCOUNTERED FOR NEW SURFACE DISTURBANCES. THE
9 DIRECTOR SHALL CONSIDER THE NATURE AND EXTENT OF THE EXISTING SURFACE
10 DISTURBANCES, RELEVANT SITE-SPECIFIC CIRCUMSTANCES AND THE TECHNICAL AND
11 ECONOMIC PRACTICABILITY OF RECLAIMING SUCH SURFACE DISTURBANCES. THE
12 DIRECTOR SHALL NOT REQUIRE THE REMOVAL OR RELOCATION OF EXISTING MINING
13 UNITS TO SATISFY THE RECLAMATION REQUIREMENTS OF THIS CHAPTER.

14 27-923. Creating surface disturbances of five acres or
15 less

16 A. AN OWNER OR OPERATOR OF A EXPLORATION OPERATION OR MINING UNIT
17 MAY CREATE A SURFACE DISTURBANCE OF FIVE CONTIGUOUS ACRES OR LESS AFTER
18 THE EFFECTIVE DATE OF THE RULES ADOPTED BY THE BOARD PURSUANT TO THIS
19 CHAPTER ONLY ON:

20 1. PRIOR NOTIFICATION TO THE DIRECTOR, INCLUDING A DESCRIPTION OF
21 THE PLANNED SURFACE DISTURBANCES AND THE RECLAMATION MEASURES CONSISTENT
22 WITH THIS CHAPTER.

23 2. PAYMENT OF A FEE AS PRESCRIBED BY THE BOARD BY RULE.

24 3. PROVIDING FINANCIAL ASSURANCE IN A STANDARD AMOUNT PURSUANT TO
25 ARTICLE 5 OF THIS CHAPTER.

26 B. THE DIRECTOR MAY REQUIRE A RECLAMATION PLAN UNDER ARTICLE 3 OR 4
27 OF THIS CHAPTER IN THE CASE OF A SERIES OF SURFACE DISTURBANCES OF FIVE
28 CONTIGUOUS ACRES OR LESS BY THE SAME OWNER OR OPERATOR.

29 27-924. Inactive mining units

30 A. AT AN INACTIVE MINING UNIT, THE FOLLOWING ARE NOT SUBJECT TO THE
31 RECLAMATION REQUIREMENTS OF THIS CHAPTER:

32 1. VOLUNTARY RECLAMATION MEASURES THAT ARE NOT REQUIRED BY FEDERAL
33 OR STATE LAW, REGULATION OR PERMIT.

34 2. ACTIONS THAT ARE REQUIRED TO COMPLY WITH OTHER LOCAL, STATE OR
35 FEDERAL LAWS, REGULATIONS, PERMITS, ORDERS OR DECREES.

36 3. MAINTENANCE ACTIVITIES.

37 B. EXPLORATION OPERATIONS AND MINERAL DEVELOPMENT, MINING,
38 CONCENTRATING AND LEACHING ACTIVITIES AT AN INACTIVE MINING UNIT ARE
39 SUBJECT TO THE RECLAMATION REQUIREMENTS OF THIS CHAPTER ONLY WITH RESPECT
40 TO NEW SURFACE DISTURBANCES CREATED BY THOSE OPERATIONS AND ACTIVITIES.

41 27-925. Remedial response to emergencies and governmental
42 orders

43 A. AN OWNER OR OPERATOR IS NOT REQUIRED TO PROVIDE NOTICE OR OBTAIN
44 APPROVAL OF A RECLAMATION PLAN OR FINANCIAL ASSURANCE MECHANISM UNDER THIS
45 CHAPTER BEFORE CREATING A SURFACE DISTURBANCE PURSUANT TO A REMEDIAL
46 ACTION IN RESPONSE TO AN EMERGENCY OR TO A GOVERNMENT ORDER TO PREVENT OR
47 MITIGATE AND ACTUAL OR POTENTIAL RELEASE OF POLLUTANTS INTO THE
48 ENVIRONMENT.

1 B. THE OWNER OR OPERATOR SHALL UPDATE THE RECLAMATION PLAN AND
2 FINANCIAL ASSURANCE MECHANISM WITHIN SIX MONTHS AFTER COMPLETING THE
3 EMERGENCY OR REMEDIAL MEASURE.

4 27-926. Initiation, extension and completion of
5 reclamation

6 A. IF A SURFACE DISTURBANCE CANNOT BE PRACTICABLY RECLAIMED
7 CONCURRENTLY WITH AN EXPLORATION OPERATION OR AT A MINING UNIT,
8 RECLAMATION SHALL BE INITIATED EITHER:

9 1. WITHIN TWO YEARS AFTER COMPLETING THE EXPLORATION OPERATION OR
10 MINING UNIT.

11 2. WITHIN TWO YEARS AFTER CESSATION OF MINING ACTIVITY IF THE OWNER
12 OR OPERATOR DOES NOT INTEND TO RESUME THE EXPLORATION OPERATION OR MINING
13 UNIT OPERATION.

14 3. AS REQUIRED BY APPLICABLE FEDERAL LAW.

15 B. THE DIRECTOR SHALL EXTEND THE PERIOD IN WHICH TO INITIATE
16 RECLAMATION UNDER SUBSECTION A, WITH UP TO THREE SUBSEQUENT FIVE-YEAR
17 EXTENSIONS, IF THE OWNER OR OPERATOR OF AN EXPLORATION OPERATION OR MINING
18 UNIT DEMONSTRATES A REASONABLE LIKELIHOOD THAT THE PROJECT OR OPERATION
19 WILL RESUME, BASED ON A CONSIDERATION OF FACTORS, INCLUDING:

20 1. THE PRESENCE OF ADDITIONAL MINERALIZATION OF THE COMMODITY BEING
21 MINED OR OTHER COMMODITIES IN COMMERCE.

22 2. HISTORICAL FLUCTUATIONS IN THE VALUE OF THE COMMODITY BEING
23 MINED OR OTHER COMMODITIES PRESENT IF THEY CAN BE MINED USING THE SAME
24 DISTURBANCES.

25 3. THE DESIGN LIFE OF ANY BENEFICIATION PROCESS COMPONENTS EXISTING
26 AT A MINING UNIT.

27 C. ONCE INITIATED, THE FINAL RECLAMATION MEASURES SHALL BE
28 PERFORMED AS STATED IN THE APPROVED RECLAMATION PLAN UNLESS THE
29 EXPLORATION OPERATION OR MINING UNIT IS REACTIVATED.

30 27-927. Substantial changes to approved reclamation plan

31 A. THE DIRECTOR MUST APPROVE ANY SUBSTANTIAL CHANGE TO AN APPROVED
32 RECLAMATION PLAN AS PROVIDED BY THIS SECTION BEFORE THE CHANGE IS
33 IMPLEMENTED.

34 B. THE OWNER OR OPERATOR OF THE EXPLORATION OPERATION OR MINING
35 UNIT SHALL SUBMIT A NOTICE OF A PROPOSED CHANGE TO THE DIRECTOR DESCRIBING
36 THE PURPOSE AND SCOPE OF THE PROPOSED CHANGE AND WHETHER IT CONSTITUTES A
37 SUBSTANTIAL CHANGE TO THE APPROVED RECLAMATION PLAN. IF THE DIRECTOR
38 FAILS TO RESPOND WITHIN FIFTEEN DAYS, THE CHANGE IS CONSIDERED TO BE
39 CONSISTENT WITH THE OPERATION'S OR UNIT'S APPROVED RECLAMATION PLAN.

40 C. IF THE DIRECTOR DETERMINES THAT THE CHANGE IS SUBSTANTIAL THE
41 DIRECTOR SHALL:

42 1. NOTIFY THE OWNER OR OPERATOR OF THE DECISION WITHIN FIFTEEN DAYS
43 AFTER RECEIVING THE NOTICE.

44 2. REQUIRE THE OWNER OR OPERATOR TO SUBMIT AN AMENDMENT TO THE PLAN
45 FOR APPROVAL. THE DIRECTOR SHALL APPROVE OR DISAPPROVE THE AMENDED PLAN
46 WITHIN NINETY DAYS AFTER RECEIVING THE AMENDED PLAN.

1 C. THE FOLLOWING CHANGES ARE NOT CONSIDERED TO BE SUBSTANTIAL, AND
2 THE OWNER OR OPERATOR IS REQUIRED TO FILE ONLY AN AMENDMENT TO THE
3 RECLAMATION PLAN AND MODIFY THE FINANCIAL ASSURANCE AS NECESSARY:

4 1. NEW SURFACE DISTURBANCES THAT CAN BE RECLAIMED IN A MANNER THAT
5 IS SUBSTANTIALLY SIMILAR TO THE MANNER OR RECLAMATION INCLUDED IN THE
6 APPROVED PLAN.

7 2. CHANGES IN THE SPECIFIC TECHNIQUES FOR RECLAMATION, INCLUDING
8 THE EQUIPMENT USED AND THE MIXES OF SEEDS AND SOILS.

9 3. CHANGES IN LOCATION OR CONFIGURATION OR ACREAGE OF SURFACE
10 DISTURBANCES UNLESS THE CHANGES SUBSTANTIALLY AFFECT THE RECLAMATION
11 MEASURES STATED IN THE RECLAMATION PLAN.

12 D. BEFORE IMPLEMENTING A SUBSTANTIAL CHANGE IN AN APPROVED
13 RECLAMATION PLAN, THE OWNER OR OPERATOR SHALL SUBMIT TO, AND RECEIVE
14 APPROVAL FROM, THE DIRECTOR A REVISED FINANCIAL ASSURANCE MECHANISM TO
15 ACCOUNT FOR THE SUBSTANTIAL CHANGE.

16 27-928. Transferring an approved reclamation plan

17 A. A RECLAMATION PLAN MAY BE TRANSFERRED FROM ONE PERSON TO
18 ANOTHER, BY OPERATION OF LAW OR OTHERWISE, IF THE CURRENT OWNER OR
19 OPERATOR NOTIFIES THE DIRECTOR IN WRITING BEFORE THE TRANSFER. THE NOTICE
20 SHALL INCLUDE THE NAME, ADDRESS, TELEPHONE NUMBER AND STATUTORY AGENT OF
21 THE PERSON TO WHOM THE PLAN WILL BE TRANSFERRED, THE EFFECTIVE DATE OF THE
22 PROPOSED TRANSFER, A PROPOSED FINANCIAL ASSURANCE MECHANISM AND OTHER
23 INFORMATION THE DIRECTOR MAY DETERMINE TO BE NECESSARY BY RULE.

24 B. THE DIRECTOR MAY DENY A TRANSFER ON DETERMINING THAT THE
25 PROPOSED FINANCIAL ASSURANCE MECHANISM DOES NOT COMPLY WITH ARTICLE 5 OF
26 THIS CHAPTER OR THAT THE TRANSFEREE IS NOT CAPABLE OF OPERATING IN
27 COMPLIANCE WITH THIS ARTICLE, THE RULES ADOPTED PURSUANT TO THIS ARTICLE
28 OR THE CONDITIONS ESTABLISHED IN THE PLAN. THE DIRECTOR SHALL ISSUE
29 NOTICE OF AND THE REASONS FOR THE DENIAL WITHIN TEN WORKING DAYS AFTER
30 RECEIVING THE PROPOSED TRANSFER. A DENIAL OF THE PLAN TRANSFER IS SUBJECT
31 TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

32 C. ON RECEIVING THE APPROVED FINANCIAL ASSURANCE MECHANISM FROM THE
33 TRANSFEREE THE DIRECTOR SHALL RELEASE THE FINANCIAL ASSURANCE MECHANISM
34 PROVIDED BY THE TRANSFEROR.

35 27-929. Notice of plan or substantial change

36 A. THE DIRECTOR SHALL GIVE NOTICE OF A PROPOSED RECLAMATION PLAN OR
37 A SUBSTANTIAL CHANGE TO AN APPROVED RECLAMATION PLAN ONCE EACH WEEK FOR
38 TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY
39 OR COUNTIES IN WHICH THE EXPLORATION OPERATION OR MINING UNIT IS OR WILL
40 BE LOCATED. IF THERE IS NO SUCH NEWSPAPER, THE DIRECTOR SHALL GIVE NOTICE
41 IN A NEWSPAPER OF GENERAL CIRCULATION THAT IS PUBLISHED IN AN ADJOINING
42 COUNTY.

43 B. THE NOTICE SHALL BRIEFLY DESCRIBE THE PROPOSED RECLAMATION PLAN
44 OR CHANGE AND STATE THAT ANY PERSON WHO MAY BE ADVERSELY AFFECTED BY THE
45 PLAN OR CHANGE MAY:

46 1. FILE A WRITTEN OBJECTION TO THE PLAN OR SUBSTANTIAL CHANGE
47 WITHIN FIFTEEN DAYS AFTER THE LAST PUBLICATION.

48 2. REQUEST A PUBLIC HEARING.

1 C. AN OBJECTION SHALL STATE THE NAME AND MAILING ADDRESS OF THE
2 OBJECTOR, BE SIGNED BY THE OBJECTOR OR THE OBJECTOR'S AGENT OR ATTORNEY
3 AND CLEARLY STATE THE REASONS WHY THE PLAN OR CHANGE SHOULD BE DENIED.
4 GROUNDS FOR OBJECTION ARE LIMITED TO WHETHER THE PROPOSED PLAN OR CHANGE
5 MEETS THE CRITERIA FOR APPROVAL IN THIS CHAPTER.

6 D. IF THERE IS SUFFICIENT PUBLIC INTEREST, THE DIRECTOR MAY HOLD A
7 PUBLIC HEARING IN THE COUNTY IN WHICH THE EXPLORATION OPERATION OR MINING
8 UNIT IS OR WILL BE LOCATED.

9 27-930. Public disclosure of information

10 A. THE DIRECTOR SHALL MAKE AVAILABLE TO THE PUBLIC ANY RECORDS,
11 REPORTS OR INFORMATION OBTAINED OR PREPARED BY THE DIRECTOR OR A
12 DEPARTMENT EMPLOYEE, UNLESS A NOTICE ACCOMPANYING THE INFORMATION OR ANY
13 PART OF THE INFORMATION STATES THAT THE INFORMATION IS A TRADE SECRET AS
14 DEFINED IN SECTION 49-201.

15 B. IF THE DIRECTOR, ON HIS OWN OR FOLLOWING A REQUEST FOR
16 DISCLOSURE, DISAGREES WITH THE TRADE SECRET NOTICE, THE DIRECTOR MAY TAKE
17 APPROPRIATE ACTION CONSISTENT WITH THE PROCEDURES IN SECTION 49-432,
18 SUBSECTIONS D, E AND F.

19 27-931. Variances

20 A. THE DIRECTOR MAY GRANT TO AN OWNER OR OPERATOR OF AN EXPLORATION
21 OPERATION OR MINING UNIT A CONDITIONAL ORDER ALLOWING THE PERSON TO VARY
22 FROM ANY PROVISION OF THIS CHAPTER, ANY RULE ADOPTED PURSUANT TO THIS
23 CHAPTER OR ANY REQUIREMENT OR CONDITION OF A RECLAMATION PLAN ISSUED
24 PURSUANT TO THIS CHAPTER IF THE DIRECTOR FINDS THAT ISSUING THE
25 CONDITIONAL ORDER WILL NOT ENDANGER PUBLIC HEALTH OR SAFETY.

26 B. THE DIRECTOR MAY APPROVE INNOVATIVE RECLAMATION OR OTHER
27 MEASURES PROPOSED BY THE OWNER OR OPERATOR THAT VARY FROM THE RECLAMATION
28 STANDARDS OF THIS CHAPTER, THE FINANCIAL ASSURANCE REQUIREMENTS UNDER
29 ARTICLE 5 OF THIS CHAPTER OR THE RULES ADOPTED PURSUANT TO THIS CHAPTER
30 AFTER A PUBLIC HEARING AND ON A SHOWING THAT THE INNOVATIVE OR OTHER
31 MEASURES CAN BE REASONABLY EXPECTED TO ACHIEVE THE POST-MINING LAND USE
32 OBJECTIVES STATED IN THE RECLAMATION PLAN.

33 27-932. Coordination with other governmental agencies

34 A. THE DIRECTOR SHALL COORDINATE THE REVIEW AND APPROVAL OF
35 RECLAMATION PLANS WITH THE STATE LAND DEPARTMENT, THE UNITED STATES BUREAU
36 OF LAND MANAGEMENT, THE UNITED STATES FOREST SERVICE AND OTHER AGENCIES
37 THAT MANAGE PUBLIC LANDS ON WHICH EXPLORATION OPERATIONS OR MINING
38 FACILITIES ARE LOCATED, WITHIN THE RESPECTIVE JURISDICTIONS, THROUGH
39 MEMORANDA OF AGREEMENT OR COOPERATIVE AGREEMENTS THAT DESIGNATE A LEAD
40 AGENCY FOR RECLAMATION PLAN REVIEW AND ACTION. THIS COORDINATION IS
41 INTENDED TO AVOID DUPLICATION OF EFFORTS TO INSPECT EXPLORATION OPERATIONS
42 AND MINING FACILITIES AND REVIEW AND ENFORCE RECLAMATION PLANS. THE
43 MEMORANDA OF AGREEMENT SHALL ALSO PROVIDE THAT NO FINANCIAL ASSURANCE MAY
44 BE REQUIRED UNDER THIS ARTICLE THAT WILL DUPLICATE FINANCIAL ASSURANCES
45 REQUIRED UNDER ANY OTHER LAW OR AGREEMENT.

46 B. IF AN EXPLORATION OPERATION OR A MINING UNIT IS LOCATED ON LAND
47 ADMINISTERED BY A FEDERAL AGENCY, AN APPROVED FEDERAL RECLAMATION PLAN AND
48 A FINANCIAL ASSURANCE MECHANISM FOR THE FEDERAL LAND THAT ARE CONSISTENT

1 WITH THE REQUIREMENTS OF THIS CHAPTER SUPERSEDE THE REQUIREMENTS FOR A
2 RECLAMATION PLAN AND FINANCIAL ASSURANCE MECHANISM OTHERWISE REQUIRED BY
3 THIS CHAPTER. IF THE EXPLORATION OPERATION OR MINING UNIT IS CONDUCTED ON
4 A SITE THAT INCLUDES BOTH FEDERAL AND PRIVATE LAND, COMPLIANCE WITH THE
5 FEDERAL PLAN IS SUFFICIENT IF THAT PLAN SUBSTANTIALLY PROVIDES FOR THE
6 RECLAMATION OF THE SITE AND A FINANCIAL ASSURANCE MECHANISM REQUIRED BY
7 THIS CHAPTER.

8 27-933. Fee

9 A. THE DIRECTOR SHALL ASSESS AND COLLECT FROM THE OWNER OR OPERATOR
10 OF AN EXPLORATION OPERATION OR A MINING UNIT A REASONABLE FEE BASED ON THE
11 REASONABLE DIRECT COSTS TO PROCESS, REVIEW, APPROVE OR DENY THE PLAN AND
12 ANY SUBSTANTIAL CHANGES TO THE PLAN. THE FEE SHALL BE REVISED ON AN
13 ANNUAL BASIS. THE BOARD SHALL ESTABLISH CRITERIA FOR THOSE COSTS BY RULE.

14 B. THE INITIAL APPLICATION FEE SHALL NOT EXCEED ONE DOLLAR PER ACRE
15 OF SURFACE DISTURBANCE COVERED BY THE RECLAMATION PLAN, WITH THE BALANCE
16 OF THE FEE TO BE PAID ON PLAN APPROVAL. THE TOTAL FEE COLLECTED BY THE
17 DEPARTMENT SHALL NOT EXCEED TEN THOUSAND DOLLARS PER PLAN.

18 27-934. Appealing denials

19 THE OWNER OR OPERATOR OF AN EXPLORATION OPERATION OR MINING UNIT MAY
20 APPEAL THE DIRECTOR'S DENIAL OF A PLAN AS PROVIDED BY TITLE 13, CHAPTER 7,
21 ARTICLE 6.

22 ARTICLE 3. EXPLORATION OPERATIONS RECLAMATION PLAN

23 27-951. Submission and contents of reclamation plan

24 A. A PERSON WHO CONDUCTS EXPLORATION OPERATIONS THAT WILL CREATE
25 MORE THAN FIVE CONTIGUOUS ACRES OF SURFACE DISTURBANCE SHALL SUBMIT A
26 RECLAMATION PLAN TO THE DIRECTOR. THE RECLAMATION PLAN SHALL:

27 1. IDENTIFY THE COUNTY OR COUNTIES IN WHICH EXPLORATION OPERATION
28 WILL BE CONDUCTED.

29 2. STATE THE RECLAMATION MEASURES THAT WILL BE TAKEN TO RECLAIM
30 ACCESS ROADS, DRILL PADS, DRILL HOLES, TRENCHES AND OTHER EXPLORATION
31 WORKINGS WHERE THE OPERATOR CONDUCTS EXPLORATION OPERATIONS IN THIS STATE.

32 B. AN OPERATOR MAY SUBMIT A SINGLE RECLAMATION PLAN COVERING ALL
33 NEW AND EXISTING EXPLORATION OPERATIONS IN THE STATE.

34 27-952. Time for submission

35 A. AN OPERATOR SHALL SUBMIT A RECLAMATION PLAN FOR A NEW
36 EXPLORATION OPERATION AT LEAST THIRTY DAYS BEFORE BEGINNING SURFACE
37 DISTURBANCES OF OVER FIVE CONTIGUOUS ACRES.

38 B. AN OPERATOR SHALL SUBMIT A RECLAMATION PLAN FOR AN EXISTING
39 EXPLORATION OPERATION WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THE
40 RULES ADOPTED PURSUANT TO THIS CHAPTER. EXISTING EXPLORATION OPERATIONS
41 MAY CONTINUE PENDING THE DIRECTOR'S DETERMINATION ON THE PROPOSED PLAN AND
42 FINANCIAL ASSURANCE MECHANISM.

43 27-953. Notice of complete, incomplete or denied plan

44 A. THE DIRECTOR SHALL NOTIFY THE OPERATOR THAT A RECLAMATION PLAN
45 IS COMPLETE OR INCOMPLETE WITHIN TWENTY DAYS AFTER RECEIVING THE PLAN.

46 B. IF THE DIRECTOR NOTIFIES THE OPERATOR THAT A PLAN IS INCOMPLETE
47 OR DENIED, THE DIRECTOR SHALL INCLUDE A WRITTEN EXPLANATION STATING THE

1 REASONS FOR DENIAL INCLUDING RECOMMENDATIONS FOR CORRECTING UNACCEPTABLE
2 PARTS OF THE PLAN CONSISTENT WITH THE REQUIREMENTS OF THIS CHAPTER.

3 27-954. Approval; criteria

4 THE DIRECTOR SHALL APPROVE A RECLAMATION PLAN FOR EXPLORATION
5 OPERATIONS WITHIN THIRTY DAYS AFTER RECEIVING A COMPLETE PLAN IF THE PLAN
6 PROVIDES FOR THE RECLAMATION OF SURFACE DISTURBANCES AT THE EXPLORATION
7 OPERATIONS ACCORDING TO THE FOLLOWING REQUIREMENTS, AS APPLICABLE:

8 1. EXPLORATION ACCESS ROADS THAT THE OPERATOR CONSTRUCTS WHICH WILL
9 NOT BE PART OF A POST-EXPLORATION USE SHALL BE RECLAIMED IN A TIMELY
10 MANNER AFTER THE EXPLORATION IS COMPLETED. IF A GOVERNMENTAL UNIT OR
11 AGENCY WILL ACCEPT DEDICATION OR CONVEYANCE OF AN ACCESS ROAD, RECLAMATION
12 IS NOT REQUIRED. RECLAMATION SHALL INCLUDE REMOVING CULVERTS, RESTORING
13 DRAINAGE TO ITS GENERAL PRE-DISTURBANCE CONFIGURATION, RIPPING THE ROAD
14 SURFACE TO REDUCE COMPACTION AND AID REVEGETATION AND CONTROLLING ACCESS
15 OF MOTORIZED VEHICLES TO THE RECLAIMED AREA.

16 2. HOLES THAT ARE DRILLED FOR MINERAL EXPLORATION PURPOSES, UNLESS
17 COMPLETED FOR WATER MONITORING, WITHDRAWAL OR OTHER USE, SHALL BE PLUGGED,
18 SEALED OR CAPPED PROMPTLY AFTER THEIR USE IS COMPLETED AS PRESCRIBED BY
19 THE DEPARTMENT OF WATER RESOURCES AND AS NECESSARY TO ENSURE SAFETY OF
20 PERSONS, ANIMALS AND MACHINERY IN THE AREA.

21 3. DRILL PADS SHALL BE RESHAPED PROMPTLY AFTER COMPLETION OF
22 DRILLING TO PREVENT EROSION AND TO ESTABLISH CONTOURS THAT ARE GENERALLY
23 COMPATIBLE WITH THE ADJACENT AREAS OR RIPPED TO REDUCE COMPACTION AND AID
24 REVEGETATION AND, IF APPROPRIATE, SEEDED TO MINIMIZE EROSION.

25 4. MUD PITS THAT ARE USED FOR DRILLING FLUIDS AND PRODUCED WATERS
26 SHALL BE RECLAIMED AFTER HAZARDOUS SUBSTANCES ARE REMOVED AND DISPOSED OF,
27 IF NECESSARY, AND AFTER THEY ARE SUFFICIENTLY DRY BY RESHAPING TO CONTOURS
28 THAT ARE GENERALLY COMPATIBLE WITH THE ADJACENT AREAS. IF IT IS
29 APPROPRIATE TO THE AREA, SUITABLE GROWTH MEDIA SHALL BE SPREAD AND SEEDED
30 OVER THE PIT AREA.

31 5. EXPLORATION TRENCHES AND PITS SHALL BE BACKFILLED AND RECLAIMED
32 AS SOON AS PRACTICABLE AS PRESCRIBED IN THE RECLAMATION PLAN. IF THE
33 TRENCH OR PIT WILL REMAIN OPEN, MEASURES SHALL BE TAKEN TO STABILIZE THE
34 SIDES TO CONTROL EROSION AND TO RESTRICT ACCESS. TRENCH AND PIT
35 RECLAMATION SHALL INCLUDE BACKFILLING, RESHAPING TO CONTOURS GENERALLY
36 COMPATIBLE WITH THE ADJACENT AREAS AND, IF APPROPRIATE FOR THE AREA,
37 SEEDING TO REESTABLISH VEGETATION.

38 6. AREAS THAT HAVE BEEN CLEARED BY BLADING WITH MECHANIZED
39 EQUIPMENT DURING EXPLORATION OPERATIONS SHALL BE RESHAPED AFTER
40 EXPLORATION IS COMPLETED, UNLESS USED FOR A POST-EXPLORATION USE, TO BE
41 GENERALLY COMPATIBLE WITH THE ADJACENT AREA. COMPACTED AREAS SHALL BE
42 RIPPED TO AID REVEGETATION.

43 27-955. Beginning new exploration operations

44 NEW EXPLORATION OPERATIONS MAY BEGIN WHEN BOTH OF THE FOLLOWING
45 OCCUR:

46 1. THE DIRECTOR APPROVES THE RECLAMATION PLAN FOR THE EXPLORATION
47 OPERATIONS OR THIRTY DAYS AFTER THE DIRECTOR RECEIVES A COMPLETE
48 RECLAMATION PLAN IF THE DIRECTOR FAILS TO TAKE ACTION.

1 2. FINANCIAL ASSURANCE HAS BEEN SUBMITTED TO THE DIRECTOR AS
2 REQUIRED BY ARTICLE 5 OF THIS CHAPTER.

3 27-956. Annual renewal

4 A RECLAMATION PLAN FOR EXPLORATION OPERATIONS IS RENEWABLE ANNUALLY
5 ON:

6 1. PAYMENT OF THE FEE ESTABLISHED BY THE DIRECTOR.

7 2. MODIFICATION OF THE PLAN TO ADDRESS TYPES OF SURFACE
8 DISTURBANCES THAT WILL BE CONDUCTED DURING EXPLORATION OPERATIONS BUT HAVE
9 NOT BEEN PREVIOUSLY ADDRESSED IN THE RECLAMATION PLAN.

10 3. SUBMISSION OF ANY ADDITIONAL FINANCIAL ASSURANCE, IF NECESSARY.

11 ARTICLE 4. MINING UNIT RECLAMATION PLAN

12 27-971. Submission and contents of reclamation plan

13 A. AN OWNER OR OPERATOR MAY SUBMIT A SINGLE RECLAMATION PLAN THAT
14 COVERS MULTIPLE MINING UNITS AS A MINING FACILITY.

15 B. THE PROPOSED RECLAMATION PLAN SHALL INCLUDE:

16 1. THE NAMES AND ADDRESSES OF THE OWNER OR OPERATOR AND AN
17 INDIVIDUAL WHO WILL BE THE REGULATORY CONTACT.

18 2. A STATEMENT THAT THE OWNER OR OPERATOR ASSUMES RESPONSIBILITY
19 FOR THE RECLAMATION OF SURFACE DISTURBANCES THAT ARE ATTRIBUTABLE TO THE
20 MINING UNIT CONSISTENT WITH THIS CHAPTER AND THE RULES ADOPTED PURSUANT TO
21 THIS CHAPTER.

22 3. THE CURRENT OWNERSHIP AND USE OF THE LAND INCLUDED IN THE MINING
23 UNIT.

24 4. THE PROPOSED POST-MINING USE OF THE LAND.

25 5. A DESCRIPTION OF THE MINING UNIT AND THE PROPOSED SURFACE
26 DISTURBANCES THAT WILL BE CREATED.

27 6. THE EXISTING AND PROPOSED FINAL TOPOGRAPHY, INCLUDING THE FINAL
28 SLOPES OF LEACH PILES, OVERBURDEN OR LOW GRADE ROCK STOCKPILES AND TAILING
29 PILES.

30 7. A NARRATIVE DESCRIPTION OF ROADS THAT ARE PROPOSED FOR THE
31 MINING UNIT.

32 8. THE ACREAGE AFFECTED BY EACH TYPE OF SURFACE DISTURBANCE AND A
33 MAP OF THE MINING UNIT AREA SHOWING EACH SURFACE DISTURBANCE.

34 9. THE PROPOSED RECLAMATION MEASURES THAT ARE NECESSARY TO ACHIEVE
35 THE POST-MINING LAND USE INCLUDING INFORMATION CONCERNING:

36 (a) THE MEASURES THAT WILL BE TAKEN TO RESTRICT PUBLIC ACCESS TO
37 PITS, ADITS, SHAFTS AND OTHER SURFACE FEATURES THAT MAY BE A HAZARD TO
38 PUBLIC SAFETY.

39 (b) THE MEASURES THAT WILL BE TAKEN TO ADDRESS EROSION CONTROL AND
40 STABILITY.

41 (c) THE REVEGETATION, CONSERVATION OR TESTING MEASURES THAT WILL BE
42 TAKEN.

43 (d) CARE AND MONITORING OF THE REVEGETATED AREAS OF THE RECLAMATION
44 SITE AS PROVIDED IN THIS CHAPTER.

45 (e) A PROPOSED TENTATIVE SCHEDULE FOR BEGINNING SURFACE
46 DISTURBANCES AND THE BEGINNING AND COMPLETING THE RECLAMATION MEASURES.

1 (f) THE ESTIMATED COSTS TO PERFORM EACH OF THE PROPOSED RECLAMATION
2 MEASURES FOR PURPOSES OF DETERMINING FINANCIAL ASSURANCE REQUIREMENTS
3 UNDER ARTICLE 5 OF THIS CHAPTER.

4 27-972. Notice of complete, incomplete or denied plan

5 A. THE DIRECTOR SHALL NOTIFY THE OWNER OR OPERATOR THAT THE PLAN IS
6 COMPLETE OR INCOMPLETE WITHIN THIRTY DAYS AFTER RECEIVING THE PLAN.

7 B. THE DIRECTOR SHALL APPROVE OR DISAPPROVE A PLAN FOR NEW MINING
8 UNITS WITHIN NINETY DAYS AFTER RECEIVING A COMPLETE PLAN.

9 C. IF THE DIRECTOR NOTIFIES THE OWNER OR OPERATOR THAT A PLAN IS
10 INCOMPLETE OR DENIED, THE DIRECTOR SHALL INCLUDE A WRITTEN EXPLANATION
11 STATING THE REASONS FOR DENIAL INCLUDING RECOMMENDATIONS FOR CORRECTING
12 UNACCEPTABLE PARTS OF THE PLAN CONSISTENT WITH THE REQUIREMENTS OF THIS
13 CHAPTER.

14 27-973. Approval; criteria

15 THE DIRECTOR SHALL APPROVE A RECLAMATION PLAN FOR MINING UNITS IF
16 THE PLAN PROVIDES FOR RECLAMATION MEASURES FOR SURFACE DISTURBANCES THAT
17 ARE:

18 1. NECESSARY TO ACHIEVE A SAFE AND STABLE CONDITION SUITABLE FOR
19 THE POST-MINING LAND USE OBJECTIVES STATED IN THE RECLAMATION PLAN.

20 2. COMPATIBLE WITH GOOD ENGINEERING PRACTICES REGARDING EROSION
21 CONTROL AND SEISMIC ACTIVITY FOR THE APPLICABLE SEISMIC ZONE.

22 B. IN EVALUATING THE RECLAMATION PLAN, THE DIRECTOR SHALL CONSIDER
23 THE TECHNICAL AND ECONOMIC PRACTICABILITY OF THE PROPOSED RECLAMATION
24 MEASURES, TAKING INTO ACCOUNT THE SITE-SPECIFIC CIRCUMSTANCES AT THE
25 MINING UNIT AND THE PROPOSED POST-MINING LAND USE OBJECTIVES AS STATED IN
26 THE RECLAMATION PLAN, INCLUDING:

27 1. GRAZING AND OTHER AGRICULTURAL LAND USE OBJECTIVES.

28 2. DEVELOPED WATER RESOURCES AND WATER MANAGEMENT PROJECTS.

29 3. CHARITABLE OR RELIGIOUS.

30 4. FISH OR WILDLIFE HABITAT.

31 5. FORESTRY.

32 6. HISTORIC PRESERVATION.

33 7. INDUSTRIAL OR COMMERCIAL, INCLUDING TOURISM.

34 8. MINING OR REMINING.

35 9. RECREATION.

36 10. RESIDENTIAL.

37 11. SCIENTIFIC OR EDUCATIONAL.

38 12. OTHER APPROPRIATE POST-MINING LAND USE OBJECTIVES.

39 C. THE POST-MINING LAND USE OBJECTIVE STATED IN THE RECLAMATION
40 PLAN NEED NOT BE THE SAME USE OF THE LAND THAT EXISTED BEFORE THE MINING
41 FACILITY WAS LOCATED ON THE SITE.

42 27-974. Preservation and conservation of soil; exceptions

43 BEFORE CREATING A SURFACE DISTURBANCE THAT IS STATED TO BE RECLAIMED
44 BY REVEGETATION PURSUANT TO A NEW MINING UNIT RECLAMATION PLAN, THE OWNER
45 OR OPERATOR SHALL CONSERVE THE SOIL AS REASONABLY AVAILABLE FROM THE AREA
46 OF DISTURBANCE TO SUPPORT THE STATED REVEGETATION ON THAT SPECIFIC
47 DISTURBANCE AS NECESSARY TO ACHIEVE THE POST-MINING LAND USE OBJECTIVES

1 STATED IN THE RECLAMATION PLAN UNLESS THE OWNER OR OPERATOR DEMONSTRATES
2 ONE OR MORE OF THE FOLLOWING FACTORS:

3 1. THERE IS INSUFFICIENT SOIL TO MAKE RECOVERY PRACTICABLE.
4 2. RECOVERY OF THE SOIL IS NOT PRACTICABLE DUE TO LIMITATIONS OF
5 TOPOGRAPHY, THICKNESS OF SOIL OR OTHER PHYSICAL, CLIMACTIC OR BIOLOGICAL
6 CONSTRAINTS.

7 3. DIRECT REVEGETATION OF THE DISTURBANCE, WITH OR WITHOUT SOIL
8 AMENDMENTS, IS NOT REASONABLE EXPECTED TO BE SUCCESSFUL.

9 27-975. Features excluded from reclamation plan or
10 allowed to remain following reclamation; public
11 protection measures

12 A. A RECLAMATION PLAN MAY EXCLUDE ANY PROVISION FOR RECLAIMING OPEN
13 PITS, ROCK FACES OR SUBSIDENCE AREAS THROUGH BACKFILLING OR RETURNING
14 MATERIALS TO THE OPEN PIT, ROCK FACE OR SUBSIDENCE AREA FROM WHICH IT WAS
15 EXTRACTED IF IT IS IMPRACTICABLE AND IF PUBLIC ACCESS TO THE OPEN PIT,
16 ROCK FACE OR SUBSIDENCE AREA, INCLUDING ANY SURROUNDING UNSTABLE AREAS OR
17 WALLS, IS RESTRICTED BY FENCING OR OTHER INSTITUTIONAL CONTROLS.

18 B. THE FOLLOWING FACTORS SHALL BE CONSIDERED IN DETERMINING WHETHER
19 THE RECLAMATION OF OPEN PITS, ROCK FACES OR SUBSIDENCE AREAS IS
20 IMPRACTICABLE:

21 1. COST TO PERFORM THE RECLAMATION.
22 2. TOPOGRAPHY OF THE SITE.
23 3. GEOLOGY AND STABILITY OF THE SITE.
24 4. THE TIME REQUIRED TO PERFORM THE RECLAMATION.
25 5. THE CONSUMPTION OF RESOURCES REQUIRED TO PERFORM THE
26 RECLAMATION.

27 6. FUTURE ACCESS TO MINERAL RESOURCES.
28 B. BUILDINGS AND OTHER STRUCTURES MAY REMAIN AFTER RECLAMATION IF
29 ADEQUATE MEASURES ARE TAKEN TO PROTECT PUBLIC SAFETY.

30 ARTICLE 5. FINANCIAL ASSURANCE

31 27-991. Financial assurance requirements; form

32 A. OWNERS AND OPERATORS OF EXPLORATION OPERATIONS AND MINING UNITS
33 WHO CREATE SURFACE DISTURBANCES SHALL PROVIDE FINANCIAL ASSURANCE TO THE
34 DIRECTOR AS PROVIDED BY THIS ARTICLE.

35 B. ALLOWABLE FINANCIAL ASSURANCE MECHANISMS FOR PURPOSES OF THIS
36 ARTICLE INCLUDE ANY OR A COMBINATION OF THE FOLLOWING:

37 1. SURETY BOND.
38 2. CERTIFICATE OF DEPOSIT.
39 3. TRUST FUND WITH PAY-IN PERIOD.
40 4. LETTER OF CREDIT.
41 5. INSURANCE POLICY.
42 6. CERTIFICATE OF SELF INSURANCE.
43 7. CASH DEPOSIT WITH THE STATE TREASURER.

44 8. EVIDENCE OF ABILITY TO MEET A CORPORATE FINANCIAL TEST OR
45 CORPORATE GUARANTEES AS PROVIDED BY 40 CODE OF FEDERAL REGULATIONS SECTION
46 264.143(f).

47 9. ANNUITIES.

1 10. ADDITIONAL FINANCIAL ASSURANCE MECHANISMS THAT ARE ACCEPTABLE TO
2 THE DIRECTOR.

3 27-992. Mining unit or existing exploration operation

4 A. THE OWNER OR OPERATOR OF AN EXISTING EXPLORATION OPERATION OR A
5 NEW OR EXISTING MINING UNIT SHALL TRANSMIT A FINANCIAL ASSURANCE MECHANISM
6 TO THE DIRECTOR WITHIN SIXTY DAYS AFTER A RECLAMATION PLAN IS APPROVED.
7 THE DIRECTOR SHALL TAKE FINAL ACTION ON THE FINANCIAL ASSURANCE MECHANISM
8 WITHIN THIRTY DAYS AFTER IT IS RECEIVED.

9 B. IN DETERMINING THE AMOUNT OF FINANCIAL ASSURANCE TO BE PROVIDED
10 FOR AN EXISTING EXPLORATION OPERATION OR A MINING UNIT, THE DIRECTOR SHALL
11 CONSIDER THE COSTS OF APPROVED RECLAMATION MEASURES STATED IN THE
12 RECLAMATION PLAN. IN COMPUTING RECLAMATION COSTS, THE DIRECTOR SHALL
13 ASSUME THAT THIRD PARTIES WILL PERFORM THE RECLAMATION MEASURES. THE
14 DIRECTOR SHALL REDUCE THE AMOUNT OF THE REQUIRED FINANCIAL ASSURANCE TO
15 THE COSTS OF THE OWNER OR OPERATOR PERFORMING THE RECLAMATION MEASURES IF
16 THE OWNER OR OPERATOR CAN DEMONSTRATE SUFFICIENT FINANCIAL ABILITY TO
17 PERFORM THE NECESSARY RECLAMATION. FINANCIAL ABILITY SHALL BE ESTABLISHED
18 BY ONE OR MORE OF THE FINANCIAL MECHANISMS DESCRIBED IN 40 CODE OF FEDERAL
19 REGULATIONS SECTION 264.143(f).

20 C. EACH FINANCIAL ASSURANCE MECHANISM FOR AN EXISTING EXPLORATION
21 OR MINING UNIT APPROVED BY THE DIRECTOR SHALL PROVIDE THE AMOUNT IN
22 CURRENT DOLLARS EQUAL TO THE COST TO:

23 1. PERFORM THE APPROVED RECLAMATION MEASURES STATED IN THE
24 RECLAMATION PLAN ON THE AREA OF SURFACE DISTURBANCE.

25 2. PROVIDE, IF NECESSARY, CONTINUED CARE AND MONITORING OF THE
26 AREAS STATED IN THE RECLAMATION PLAN FOR REVEGETATION FOR NO MORE THAN
27 THREE GROWING SEASONS WITHOUT ADDITIONAL SUPPLEMENTAL IRRIGATION OR OTHER
28 MAN-INDUCED INPUTS AFTER PERFORMING THE RECLAMATION MEASURES UNLESS THE
29 SUPPLEMENTAL INPUTS ARE PART OF THE POST-MINING LAND USE. NOTWITHSTANDING
30 THIS PARAGRAPH, REVEGETATION EFFORTS THAT ARE NECESSARY TO ACHIEVE THE
31 POST-MINING LAND USE OBJECTIVE ARE CONSIDERED ADEQUATE AND COMPLETE IF THE
32 OWNER OR OPERATOR HAS TAKEN REASONABLE MEASURES TO ACHIEVE VEGETATIVE
33 SUCCESS. TECHNICAL AND ECONOMIC PRACTICABILITY AS IT RELATES TO
34 SITE-SPECIFIC CONDITIONS AND THE PROPOSED POST-MINING LAND USE SHALL BE
35 TAKEN INTO ACCOUNT IN MAKING THAT DETERMINATION.

36 D. THE DIRECTOR SHALL ADJUST THE AMOUNT OF FINANCIAL ASSURANCE
37 EVERY FIVE YEARS OR MORE OFTEN AS NECESSARY TO ADJUST FOR NEW AREAS OF
38 PLANNED SURFACE DISTURBANCES, INFLATION OR TO REFLECT CHANGED COSTS
39 RESULTING FROM SUBSTANTIAL MODIFICATIONS OF THE RECLAMATION PLAN.

40 27-993. New exploration operation

41 A. THE OWNER OR OPERATOR OF A NEW EXPLORATION OPERATION SHALL
42 FURNISH A FINANCIAL ASSURANCE MECHANISM TO THE DIRECTOR IN AN AMOUNT
43 EQUIVALENT TO TWO THOUSAND DOLLARS PER ACRE OF NEW SURFACE DISTURBANCE,
44 UNLESS THE DIRECTOR APPROVES A COST ESTIMATE FOR AN AMOUNT LESS THAN TWO
45 THOUSAND DOLLARS PER ACRE.

46 B. AN OWNER OR OPERATOR MAY PROVIDE A SINGLE FINANCIAL ASSURANCE
47 MECHANISM FOR ALL OF ITS EXPLORATION OPERATIONS CONDUCTED IN THIS STATE.

1 27-994. Financial assurance for surface disturbances of
2 five acres or less

3 A PERSON WHO CREATES A SURFACE DISTURBANCE OF FIVE CONTIGUOUS ACRES
4 OR LESS PURSUANT TO SECTION 27-923 SHALL PROVIDE FINANCIAL ASSURANCE UNDER
5 THIS ARTICLE IN A STANDARD AMOUNT DETERMINED BY THE BOARD BY RULE. THE
6 DIRECTOR SHALL RELEASE THE FINANCIAL ASSURANCE PROVIDED UNDER THIS SECTION
7 WITHIN SIXTY DAYS AFTER NOTIFICATION BY THE PERSON THAT THE RECLAMATION
8 MEASURES HAVE BEEN PERFORMED.

9 27-995. Duplication of financial assurance not required

10 FINANCIAL ASSURANCE IS NOT REQUIRED UNDER THIS ARTICLE THAT
11 DUPLICATES FINANCIAL ASSURANCE THAT IS REQUIRED UNDER OTHER STATE OR
12 FEDERAL LAWS.

13 27-996. Incremental financial assurance

14 AN OWNER OR OPERATOR MAY PROVIDE FINANCIAL ASSURANCE UNDER THIS
15 ARTICLE ON AN INCREMENTAL BASIS FOR PLANNED SURFACE DISTURBANCES DESCRIBED
16 IN THE RECLAMATION PLAN.

17 27-997. Release of financial assurance

18 A. AN OWNER OR OPERATOR MAY APPLY TO THE DIRECTOR TO RELEASE ALL OR
19 PART OF THE FINANCIAL ASSURANCE PROVIDED UNDER THIS ARTICLE. THE
20 APPLICATION SHALL:

- 21 1. DESCRIBE THE RECLAMATION MEASURES THAT HAVE BEEN PERFORMED.
22 2. DESCRIBE ANY SURFACE DISTURBANCES INCLUDED IN THE RECLAMATION
23 PLAN THAT HAVE NOT BEEN DISTURBED.
24 3. CONTAIN AN ESTIMATE OF THE COSTS OF RECLAMATION MEASURES THAT
25 HAVE NOT BEEN PERFORMED.

26 B. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE APPLICATION, THE
27 DIRECTOR SHALL RELEASE ALL OR PART OF THE FINANCIAL ASSURANCE EXCEPT FOR
28 ANY AMOUNT THAT IS NECESSARY TO PERFORM THE RECLAMATION MEASURES
29 IDENTIFIED IN THE RECLAMATION PLAN. AFTER THE RECLAMATION MEASURES HAVE
30 BEEN PERFORMED, THE REMAINING FINANCIAL ASSURANCE SHALL BE RELEASED EXCEPT
31 FOR TEN PER CENT TO BE RETAINED FOR THE COSTS OF CARE, MONITORING AND ONE
32 RESEEDING, IF NECESSARY, FOR AREAS THAT HAVE BEEN REVEGETATED. THE
33 DIRECTOR SHALL RELEASE THE RETAINED MONIES AFTER A PERIOD OF NOT MORE THAN
34 THREE GROWING SEASONS AFTER THE SUPPLEMENTAL MANAGEMENT OR OTHER
35 MAN-INDUCED INPUTS HAVE BEEN FINALLY REMOVED OR AS OTHERWISE PROVIDED IN
36 SECTION 27-992, SUBSECTION B.

37 27-998. Rules; release, forfeiture or exercise of
38 financial assurance

39 A. THE BOARD SHALL ADOPT RULES FOR REVIEWING AND ACTING ON:

- 40 1. APPLICATIONS TO RELEASE ALL OR PART OF FINANCIAL ASSURANCE UNDER
41 THIS ARTICLE.
42 2. FORFEITURE OR EXERCISE OF FINANCIAL ASSURANCE ON FAILURE TO
43 IMPLEMENT A RECLAMATION PLAN AS REQUIRED BY THIS ARTICLE.

44 B. THE RULES SHALL PROVIDE FOR WRITTEN NOTICE TO ALL PRINCIPALS AND
45 SURETIES ON THE FINANCIAL ASSURANCE AND AN OPPORTUNITY FOR A HEARING.

46 ARTICLE 6. ENFORCEMENT

47 27-1021. Inspections

1 THE DIRECTOR MAY ENTER AND INSPECT, DURING NORMAL BUSINESS HOURS,
2 ANY EXPLORATION OPERATION OR MINING FACILITY THAT IS SUBJECT TO THIS
3 CHAPTER TO DETERMINE COMPLIANCE WITH THIS CHAPTER. THE DIRECTOR SHALL
4 NOTIFY THE OWNER OR OPERATOR WITHIN A REASONABLE TIME BEFORE ENTERING THE
5 PROPERTY FOR INSPECTION.

6 27-1022. Compliance orders

7 A. IF THE DIRECTOR DETERMINES THAT A PERSON IS VIOLATING THIS
8 CHAPTER, A RULE ADOPTED PURSUANT TO THIS CHAPTER OR ANY CONDITION OF A
9 RECLAMATION PLAN APPROVED PURSUANT TO THIS CHAPTER OR IS CAUSING AN
10 IMMINENT AND SUBSTANTIAL DANGER TO THE PUBLIC HEALTH OR TO THE
11 ENVIRONMENT, THE DIRECTOR MAY ISSUE AN ORDER REQUIRING COMPLIANCE EITHER
12 IMMEDIATELY OR WITHIN A STATED PERIOD OF TIME.

13 B. A COMPLIANCE ORDER SHALL STATE WITH REASONABLE SPECIFICITY THE
14 NATURE OF THE VIOLATION, A TIME FOR COMPLIANCE, IF APPLICABLE, AND THE
15 RIGHT TO A HEARING.

16 C. THE DIRECTOR SHALL TRANSMIT THE COMPLIANCE ORDER TO THE ALLEGED
17 VIOLATOR EITHER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY HAND
18 DELIVERY.

19 D. AT THE DIRECTOR'S REQUEST, THE ATTORNEY GENERAL MAY FILE AN
20 ACTION IN SUPERIOR COURT TO ENFORCE ORDERS ISSUED UNDER THIS SECTION AFTER
21 THE ORDER BECOMES FINAL. THE ACTION SHALL BE FILED IN SUPERIOR COURT IN
22 THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED OR IN WHICH THE
23 DEPARTMENT MAINTAINS AN OFFICE.

24 27-1023. Enforcement action on reclamation plan approval

25 A. THE DIRECTOR MAY SUSPEND, AMEND, WITHDRAW, IMPOSE CONDITIONS ON
26 OR REVOKE A RECLAMATION PLAN APPROVAL IF THE DIRECTOR DETERMINES THAT THE
27 FACILITY IS IN VIOLATION OF ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

28 B. ANY ACTION TAKEN UNDER THIS SECTION SHALL COMPLY WITH THE
29 REQUIREMENTS OF TITLE 41, CHAPTER 6.

30 27-1024. Injunctive relief; civil penalties

31 A. IF THE DIRECTOR HAS REASON TO BELIEVE THAT A PERSON IS VIOLATING
32 THIS CHAPTER, A RULE ADOPTED PURSUANT TO THIS CHAPTER OR THAT A PERSON IS
33 CAUSING AN IMMINENT AND SUBSTANTIAL DANGER TO THE PUBLIC HEALTH OR TO THE
34 ENVIRONMENT, THE DIRECTOR, THROUGH THE ATTORNEY GENERAL, MAY REQUEST A
35 TEMPORARY RESTRAINING ORDER, A PRELIMINARY INJUNCTION, A PERMANENT
36 INJUNCTION OR ANY OTHER RELIEF NECESSARY TO PROTECT THE PUBLIC HEALTH OR
37 THE ENVIRONMENT, WITHOUT REGARD TO WHETHER THE PERSON HAS REQUESTED A
38 HEARING.

39 B. A PERSON WHO VIOLATES THIS CHAPTER OR A RULE, ORDER OR
40 RECLAMATION PLAN APPROVAL ADOPTED OR ISSUED PURSUANT TO THIS CHAPTER IS
41 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH
42 DAY OF VIOLATION, NOT TO EXCEED FIFTEEN THOUSAND DOLLARS FOR EACH
43 VIOLATION. AT THE DIRECTOR'S REQUEST, THE ATTORNEY GENERAL SHALL FILE AN
44 ACTION IN SUPERIOR COURT TO RECOVER CIVIL PENALTIES AS PRESCRIBED BY THIS
45 SECTION.

46 C. AN ACTION FILED UNDER THIS SECTION SHALL BE BROUGHT IN SUPERIOR
47 COURT IN THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED OR IN WHICH
48 THE DEPARTMENT MAINTAINS AN OFFICE.

1 27-1025. Agency order; appeal
2 A. AN ORDER ISSUED BY THE DIRECTOR PURSUANT TO THIS ARTICLE IS
3 FINAL UNLESS THE DEFENDANT APPEALS THE ORDER PURSUANT TO TITLE 41, CHAPTER
4 6 WITHIN THIRTY DAYS AFTER RECEIVING THE ORDER.

5 B. A FINAL AGENCY ORDER IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO
6 TITLE 12, CHAPTER 7, ARTICLE 6.

7 27-1026. Violation; classification
8 A. BEGINNING ON THE EFFECTIVE DATE OF RULES ADOPTED BY THE BOARD
9 PURSUANT TO THIS CHAPTER, AN OWNER OR OPERATOR OF AN EXPLORATION OPERATION
10 OR MINING UNIT SHALL NOT:

11 1. CAUSE A SURFACE DISTURBANCE AT AN EXPLORATION OPERATION OR NEW
12 MINING UNIT WITHOUT A RECLAMATION PLAN OR NOTICE AS REQUIRED BY THIS
13 CHAPTER.

14 2. FAIL OR REFUSE TO CONDUCT RECLAMATION ACCORDING TO THE TERMS OF
15 AN APPROVED RECLAMATION PLAN.

16 B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
17 MISDEMEANOR.

18 Sec. 2. Requirements for enactment
19 Pursuant to article IX, section 22, Constitution of Arizona, this
20 act is effective only on the affirmative vote of at least two-thirds of
21 the members of each house of the legislature and is effective immediately
22 on the signature of the governor or, if the governor vetoes this act, on
23 the subsequent affirmative vote of at least three-fourths of the members
24 of each house of the Legislature.

ARIZONA STATE SENATE

MEMO

December 16, 1993

To: MEMBERS OF THE SUBCOMMITTEE OF THE JOINT LEGISLATIVE STUDY COMMITTEE
ON MINED LAND RECLAMATION

From: SUSAN MCJUNKIN, Legislative Research Analyst
Natural Resources, Agriculture and Environment Committee

Re: Suggested Changes to Mined Land Reclamation Bill Draft - #0529

SUBSTANTIVE CHANGES

- 1) Include "Bad Actor" provisions which will prohibit approval of a mined land reclamation plan submitted by a mine owner or operator who has a poor record of criminal and/or civil violations relating to that person's mining operations (* This is similar to the certificate of disclosure of violations required by ADEQ.)
- 2) Provide for separate legislation for the plan fee provisions for the Mined Land Reclamation program to avoid Proposition 108 requirements for the program itself (Proposition 108 requires at least a 2/3 vote of each house for passage and the makes the bill effective upon the signature of the Governor.)
- 3) Eliminate state lands from the provisions of the reclamation program since the State Land Department already administers and enforces reclamation of mining operations on state lands. The Land Department would continue to coordinate with state and federal agencies on reclamation plan approval for mining operations that are on both public and private land.

TECHNICAL AND CONFORMING CHANGES

- 4) Move back the date by which the administering agency must adopt rules for the Mined Land Reclamation Program from December 31, 1995 to July 1, 1996.
- 5) Conform the time frames provided for reclamation plan filing, approval and changes to allow the administering agency a longer period of time to act on an application or submittal.

ARIZONA STATE LEGISLATURE
JOINT LEGISLATIVE STUDY COMMITTEE ON
MINED LAND RECLAMATION

Minutes of Meeting
Thursday, December 16, 1993
Senate Hearing Room 2 - 2:00 p.m.

Cochairman Buster called the meeting to order at 3:05 p.m. after the conclusion of the subcommittee meeting, and roll call was taken. See attached sheet for other attendees.

Members Present

Representative Conner
Representative Kaites
Representative Brown
Representative Clark
Senator Chesley
Senator Arzberger
Senator Hardt
Representative Keegan, Cochairman
Senator Buster, Cochairman

Members Excused

Senator Phillips

Staff
Susan McJunkin
Dan Shein

Susan McJunkin, Senate Research Analyst, explained that the subcommittee recommended a proposal that was submitted at its last meeting and redrafted by Legislative Council (filed with original minutes). She provided an overview of the proposal and substantive changes recommended by the subcommittee (filed with original minutes).

Jim Bush, representing Arizona Mining Association, offered to answer any questions the Committee might have. Representative Conner and Senator Chesley commented on the advantages of deleting the provision mandating the Department of Mines and Mineral Resources (DMMR) to administer and enforce a State Mined Land Reclamation Program, with consideration of the appropriate department to fulfill this responsibility to be given during the regular legislative process. Mr. Bush contended that the program could appropriately be administered and enforced through DMMR but added that it would not be objectionable to the Arizona Mining Association that the determination be made at a later time.

After discussion raised by Senator Hardt pertaining to the references in the proposed legislation to DMMR, Senator Buster indicated that the bill could reflect a blank line rather than refer to a particular agency.

Representative Conner moved that the Committee recommend to the Legislature the proposed Mined Land Reclamation Program with the suggested changes, including the future determination of the administrative and enforcement agency for the program.

Bob Beatson, Director, Arizona League of Conservation Voters, outlined the provisions included in the proposal submitted by the League and the Sierra Club (filed with original minutes). He explained that the proposed legislation is an

environmental bill that deals with reclamation and is based on legislation recently enacted in New Mexico, a state with mining conditions that closely approximate those in Arizona.

Raena Honan, representing Sierra Club, offered a side-by-side comparison of the proposal discussed by Mr. Beatson and the proposal endorsed by the mining industry and recommended by the subcommittee (filed with original minutes). Ms. Honan suggested that the most appropriate place for the reclamation function is within the Arizona Department of Environmental Quality (ADEQ), particularly since that agency routinely handles the permitting process for the mines. She emphasized the need to consolidate and coordinate the functions of ADEQ rather than create a new level of government. However, Ms. Honan contended that there is no compelling reason to act immediately and recommended that the discussions continue.

Larry Bauer, Deputy State Director for Mineral Resources, U.S. Bureau of Land Management, commented that the Federal mining law is currently under reform, noting that bills recently passed by both the U.S. Senate and House of Representatives include provisions to establish abandoned mine reclamation funds. He explained that a state will not receive any of those Federal funds without having its own reclamation program in place. Mr. Bauer provided information pertaining to the significant drop in the number of active claims in the State as a result of the implementation of Federal mining claim fees (filed with original minutes). He suggested the Committee consider the ramifications of funding the proposed reclamation program based on the number of mining claims.

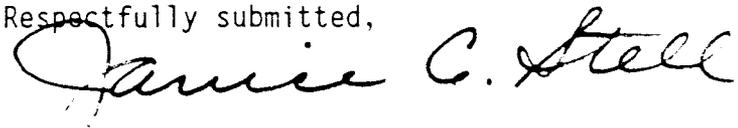
Douglas Martin, State Mine Inspector, advocated that existing Federal and State agencies coordinate their present mining reclamation activities as opposed to creating an entirely new agency (handout filed with original minutes).

David Kimball, Chairman of Arizona Chamber of Commerce Environment Committee, stated that the mining industry in New Mexico did not support the bill enacted in that State. He also maintained that the bill presented by the Arizona League of Conservation Voters and the Sierra Club is not consistent with the New Mexico program, particularly with the addition of the unsuitability provision. He observed that New Mexico's environmental programs are quite different from those in Arizona. Mr. Kimball noted that Arizona has one of the most protective groundwater programs in the Nation and added that another major environmental overlay program would result in significant duplication.

The motion CARRIED by voice vote.

The meeting adjourned at 3:58 p.m.

Respectfully submitted,



Janice C. Stell, Committee Secretary

(Attachments and tapes are on file in the Office of the Secretary of the Senate.)

MEETING OF COMMITTEE ON

MINED LAND RECLAMATION

DATE 12/16/93

TIME 2:00 P.M.
~~10:00 A.M.~~

NAME

REPRESENTING

PHONE

Mike Rice

State Land

Orin Bush

Arizona Mining Assoc

Edwin Lecker

MASMA Upper Co.

Douglas Martin

AZ STATE MINE INSPECTION

Cherry Gatten

✓ ✓ ✓

Jamie Sturgess

CYRUS Climax

John Kormanoff

" "

Jim Hartogegen

" "

Larry P. Baller

US Bureau of Land Management

Bob Beatson

AZ League Conservation Voters

Larry Fellows

AZ Geological Survey

Rena Howard

Sierra Club - Grand Canyon Chapter

DAVID KIMBALL

KIMBALL & CURRY

Ron Kullen

ARIZONAS

Bob Gould

ASRYRCC

GENIE HOWELL

self