

JONES SUBSTITUTE FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2617

I move the following SUBSTITUTE amendment to the NATURAL RESOURCES AND RURAL AFFAIRS Committee Amendment to HOUSE BILL 2617 (Reference to printed bill)

1 Page 1, between lines 25 and 26, insert:

2 "G. THE MINE INSPECTOR OR THE DIRECTOR OF THE DEPARTMENT OF MINES AND
3 MINERAL RESOURCES MAY INTERVENE ON BEHALF OF THIS STATE IN A FEDERAL COURT
4 ACTION PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE RULE 24 IN A CASE IN
5 WHICH THIS STATE HAS A SIGNIFICANT INTEREST RELATING TO THE PROPERTY,
6 TRANSACTION OR ISSUE THAT IS THE SUBJECT OF THE ACTION AND THE DUTIES,
7 AUTHORITY OR INTERESTS OF THE STATE MINE INSPECTOR OR THE DIRECTOR OF THE
8 DEPARTMENT OF MINES AND MINERAL RESOURCES ARE RELEVANT TO THIS STATE'S
9 INTEREST IN THE ACTION.

10 Sec. 2. Section 37-108, Arizona Revised Statutes, is amended to read:

11 37-108. Fees; accounts

12 A. The department shall charge fees in the following amounts:

13 1. Applications to lease; agreements:

14 (a) Surface lease:

15 (i) Agriculture, new lease

16 for each section or

17 fraction thereof \$100

18 (ii) Agricultural, renewal

19 for each lease \$100

20 (iii) Commercial, new \$200

21 (iv) Commercial, renewal \$100

House Amendments to H.B. 2617

1	(v) Grazing, new for each	
2	section or fraction	
3	thereof	\$100
4	(vi) Grazing, renewal for	
5	each lease	\$100
6	(vii) Homesite, new	\$100
7	(viii) Homesite, renewal	\$100
8	(b) Urban planning/permits:	
9	(i) Classification	\$100
10	(ii) Development plan	\$100
11	(c) Subsurface lease/permit/agreement:	
12	(i) Mineral materials	\$100
13	(ii) Mineral exploration	\$100
14	(iii) Mineral for each subdivision	\$100
15	(iv) Oil and gas	\$100
16	(v) Geothermal	\$200
17	2. All assignments of leases, permits,	
18	rights-of-way and contracts	\$200
19	3. Exchanges of land	\$1,000
20	4. Improvements:	
21	(a) Application to place	\$50
22	(b) Land treatment	\$50
23	(c) Report of improvements without	
24	prior approval	\$50
25	5. Natural products:	
26	(a) Commercial timber	\$100
27	(b) Other natural products	\$100
28	6. Permits:	
29	(a) Special land use	\$100
30	(b) Recreational: noncommercial	
31	activities	
32	(i) Annual use, per person	\$15

1	(ii) Group of fewer than twenty	
2	persons for less than	
3	five days	\$15
4	(iii) Annual use, family unit of	
5	two adults and children	
6	under fourteen years	
7	of age	\$20
8	(iv) Annual use, group or club	\$50
9	7. Reclassification of lands	\$100
10	8. Right-of-way	\$100
11	9. Sales:	
12	(a) Application to purchase	\$200
13	(b) Certificate of purchase:	
14	(i) Issuance	\$100
15	(ii) Transfer	\$200
16	(c) Issuance of patent	\$100
17	10. Selling and administrative expenses:	
18	(a) Up to three per cent of the	
19	consideration paid for all	
20	lands sold or long-term	
21	leased.	
22	(b) Two per cent of the first two	
23	hundred fifty thousand	
24	dollars of the appraised	
25	value of all improvements	
26	sold or the actual costs	
27	of the appraisal of the	
28	improvements sold, whichever	
29	is greater.	
30	(c) The actual cost of zoning	
31	application fees paid by the	
32	department to rezone trust land.	

1 (d) The actual costs of legal
2 advertising expenses required
3 by law and paid by the
4 department, including costs
5 of advertising hearings, land,
6 leases and rights-of-way.

7 (e) The actual costs of appraisals
8 paid by the department unless
9 prepaid by the applicant.

10 11. Service fee:

- | | |
|--------------------------------------|--------------|
| 11 (a) Replacement of lost documents | \$50 |
| 12 (b) Certified copy of documents | \$10 plus |
| 13 | \$1 per page |
| 14 (c) Returned check | \$20 |

15 12. Miscellaneous filings, including power
16 of attorney, mortgage, probate
17 documents, divorce documents, deeds
18 of trust, agreements, subleases,
19 rights of entry, applications to
20 open land and other similar
21 documents

\$50

22 13. Bond for conservation lease or sale
23 for conservation purposes

\$1,000

24 B. Notwithstanding section 37-107, monies paid as legal advertising
25 costs under subsection A of this section, appraisal monies received pursuant
26 to subsection D of this section and monies paid as application evaluation and
27 processing costs pursuant to section 37-205, subsection A shall be deposited,
28 pursuant to sections 35-146 and 35-147, in a separate account of the state
29 land department fund to be used to pay costs of legal advertising, appraisals
30 required by the enabling act, the Constitution of Arizona or statute and
31 costs of evaluating and processing an application. The account shall be
32 administered by the commissioner. On notice from the commissioner, the state

1 treasurer shall invest and divest monies in the state land department fund as
2 provided by section 35-313, and monies earned from investment shall be
3 credited to the fund.

4 C. Monies paid as actual costs of zoning application fees paid by the
5 department to rezone trust land under subsection A of this section shall be
6 deposited, pursuant to sections 35-146 and 35-147, in a separate account of
7 the state land department fund designated the zoning application fees
8 account. Monies in the account shall be used to pay zoning application fees
9 if developing trust lands require rezoning by the jurisdiction in which the
10 lands are located. The account shall be administered by the commissioner.

11 D. At the request of an applicant, the commissioner may accept
12 prepayment for the estimated cost of an appraisal required pursuant to
13 section 27-234 and this title. The commissioner shall deposit and administer
14 prepayment monies as provided by subsection B of this section. The
15 commissioner shall use monies accepted pursuant to this subsection to conduct
16 contract appraisals. If an auction is held pursuant to this section and the
17 applicant, who has prepaid the estimated cost of an appraisal, is not the
18 successful bidder, the successful bidder shall reimburse the applicant for
19 the actual cost of the appraisal. Nothing in this section does any of the
20 following:

21 1. Requires the commissioner to offer any land at auction or for
22 lease.

23 2. Requires the commissioner to reimburse the applicant if the land is
24 not auctioned or leased.

25 3. Affects the status of any other application pending an appraisal.

26 E. Except as provided under section 37-205, application fees paid to
27 the department under this section are not refundable to the applicant,
28 regardless of the outcome of the application.

29 F. THE DEPARTMENT MAY CONTRACT WITH PRIVATE CONSULTANTS FOR THE
30 PURPOSES OF ASSISTING THE DEPARTMENT IN REVIEWING LICENSES, PERMITS OR OTHER
31 AUTHORIZATIONS TO DETERMINE WHETHER AN APPLICANT MEETS THE CRITERIA. IF THE
32 DEPARTMENT CONTRACTS WITH A CONSULTANT UNDER THIS SECTION, AN APPLICANT MAY

1 REQUEST THAT THE DEPARTMENT EXPEDITE THE APPLICATION REVIEW BY REQUESTING
2 THAT THE DEPARTMENT USE THE SERVICES OF THE CONSULTANT AND BY AGREEING TO PAY
3 THE DEPARTMENT THE COSTS OF THE CONSULTANT'S SERVICES."

4 Re-number to conform

5 Page 1, line 38, after "41-1008" strike remainder of line

6 Line 39, strike "LESS THAN THE AMOUNT BUDGETED FOR THAT AGENCY IN FISCAL YEAR
7 2009-2010"

8 Strike lines 40 through 43

9 Re-number to conform

10 Page 3, strike lines 21 through 26, insert:

11 "20. UNLESS SPECIFICALLY AUTHORIZED BY STATUTE, IS ENTITLED TO HAVE
12 STATE AGENCIES AVOID DUPLICATION OF OTHER LAWS AND DUAL PERMITTING TO THE
13 MAXIMUM EXTENT PRACTICABLE AS PRESCRIBED IN SECTION 41-1002."

14 Strike lines 30 through 45

15 Page 4, strike lines 1 through 8, insert:

16 "Sec. 4. Section 41-1002, Arizona Revised Statutes, is amended to
17 read:

18 41-1002. Applicability and relation to other law

19 A. Articles 1 through 5 of this chapter apply to all agencies and all
20 proceedings not expressly exempted.

21 B. This chapter creates only procedural rights and imposes only
22 procedural duties. They are in addition to those created and imposed by
23 other statutes. To the extent that any other statute would diminish a right
24 created or duty imposed by this chapter, the other statute is superseded by
25 this chapter, unless the other statute expressly provides otherwise.

26 C. An agency may grant procedural rights to persons in addition to
27 those conferred by this chapter so long as rights conferred on other persons
28 by any provision of law are not substantially prejudiced.

29 D. UNLESS SPECIFICALLY AUTHORIZED BY STATUTE, AN AGENCY SHALL AVOID
30 DUPLICATION OF OTHER LAWS AND DUAL PERMITTING TO THE MAXIMUM EXTENT
31 PRACTICABLE."

32 Line 17, after the first "RULE" insert ", IN WHOLE OR IN PART,"

1 Page 5, strike lines 27 through 44

2 Strike page 6

3 Page 7, strike lines 1 through 8

4 Renumber to conform

5 Line 31, strike "FIVE" insert "TWO AND ONE-HALF"

6 Strike lines 35 through 45

7 Page 8, strike lines 1 through 10, insert:

8 "Sec. 7. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
9 amended by adding section 41-3020.01, to read:

10 41-3020.01. Mining advisory council; termination July 1, 2020

11 A. THE MINING ADVISORY COUNCIL TERMINATES ON JULY 1, 2020.

12 B. TITLE 41, CHAPTER 46 IS REPEALED ON JANUARY 1, 2021.

13 Sec. 8. Title 41, Arizona Revised Statutes, is amended by adding
14 chapter 46, to read:

15 CHAPTER 46

16 MINING ADVISORY COUNCIL

17 ARTICLE 1. GENERAL PROVISIONS

18 41-4601. Mining advisory council

19 A. THE MINING ADVISORY COUNCIL IS ESTABLISHED CONSISTING OF THE
20 FOLLOWING MEMBERS:

21 1. THE STATE MINE INSPECTOR OR THE STATE MINE INSPECTOR'S DESIGNEE.

22 2. ONE MEMBER WHO REPRESENTS A SMALL COMPANY THAT IS ACTIVELY ENGAGED
23 IN THE MINING INDUSTRY AND WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF
24 REPRESENTATIVES. THE SPEAKER SHALL APPOINT THIS MEMBER FROM A LIST OF THREE
25 NAMES PRESENTED TO THE SPEAKER BY AN ARIZONA MINING ASSOCIATION.

26 3. TWO MEMBERS WHO ARE ACTIVELY ENGAGED IN THE AGGREGATE MINING
27 INDUSTRY AND WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF
28 REPRESENTATIVES. THE SPEAKER SHALL APPOINT THESE MEMBERS FROM A LIST OF SIX
29 NAMES PRESENTED TO THE SPEAKER BY AN ARIZONA AGGREGATE ASSOCIATION.

1 4. TWO MEMBERS WHO REPRESENT LARGE COMPANIES THAT ARE ACTIVELY ENGAGED
2 IN THE MINING INDUSTRY AND WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE.
3 THE PRESIDENT SHALL APPOINT THESE MEMBERS FROM A LIST OF SIX NAMES PRESENTED
4 TO THE PRESIDENT BY AN ARIZONA MINING ASSOCIATION.

5 5. ONE MEMBER WHO REPRESENTS A MINING SUPPLIER COMPANY THAT IS
6 ACTIVELY ENGAGED IN THE MINING INDUSTRY AND WHO IS APPOINTED BY THE GOVERNOR.
7 THE GOVERNOR SHALL APPOINT THIS MEMBER FROM A LIST OF THREE NAMES PRESENTED
8 TO THE GOVERNOR BY AN ARIZONA MINING SUPPLIER ASSOCIATION.

9 B. THE INITIAL MEMBERS APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPHS
10 2 THROUGH 5 SHALL ASSIGN THEMSELVES BY LOT TO TWO, THREE, FOUR AND FIVE YEARS
11 IN OFFICE. ALL SUBSEQUENT MEMBERS SERVE FIVE YEAR TERMS OF OFFICE. A MEMBER
12 MAY CONTINUE TO SERVE UNTIL THE MEMBER'S SUCCESSOR IS APPOINTED AND ASSUMES
13 OFFICE. A MEMBER MAY NOT BE APPOINTED TO MORE THAN ONE FULL TERM PLUS
14 APPOINTMENT TO FILL A VACANCY FOR THE REMAINDER OF AN UNEXPIRED TERM.

15 C. THE APPOINTING AUTHORITY MAY REMOVE A MEMBER FOR CAUSE. IN
16 ADDITION, A MEMBER IS DEEMED TO HAVE VACATED THE MEMBER'S OFFICE IF THE
17 MEMBER:

18 1. CEASES TO ENGAGE IN THE MEMBER'S QUALIFYING OCCUPATION.
19 2. NO LONGER RESIDES IN THIS STATE.
20 3. IS ABSENT WITHOUT EXCUSE FROM THREE CONSECUTIVE REGULAR MEETINGS OF
21 THE COUNCIL.

22 4. RESIGNS, DIES OR BECOMES UNABLE TO PERFORM THE MEMBER'S DUTIES.

23 D. MEMBERS OF THE ADVISORY COUNCIL ARE NOT ELIGIBLE TO RECEIVE
24 COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE
25 38, CHAPTER 4, ARTICLE 2. THE ADVISORY COUNCIL IS A PUBLIC BODY FOR PURPOSES
26 OF TITLE 38, CHAPTER 3, ARTICLE 3.1.

27 E. THE ADVISORY COUNCIL SHALL:

28 1. SELECT A CHAIRPERSON AND VICE-CHAIRPERSON FROM AMONG ITS MEMBERS.
29 2. HOLD A REGULAR MEETING EVERY CALENDAR QUARTER AND ADDITIONAL
30 MEETINGS AT THE CALL OF THE CHAIRPERSON OR A MAJORITY OF ITS MEMBERS.

31 3. REVIEW MINING POLICY IN THIS STATE AS ESTABLISHED BY LAW AND AS
32 ADMINISTERED IN ALL FUNCTIONAL AREAS OF STATE GOVERNMENT.

1 4. ASSIST STATE AGENCIES IN FORMULATING ADMINISTRATIVE RULES AND
2 PROPOSED BUDGET ALLOCATIONS AMONG STATE AGENCIES WITH JURISDICTION OVER
3 MINING IN THIS STATE AND PROVIDE SUCH ADDITIONAL ASSISTANCE AS STATE AGENCIES
4 REQUEST.

5 5. REVIEW, ADVISE AND MAKE RECOMMENDATIONS TO STATE AGENCIES ON
6 PROPOSED RULES AFFECTING MINING.

7 6. EXAMINE THE ANNUAL REPORT PREPARED BY THE DIRECTOR OF THE OFFICE OF
8 ADMINISTRATIVE HEARINGS PURSUANT TO SECTION 41-1092.01 RELATING TO
9 ADMINISTRATIVE LAW JUDGE DECISIONS REJECTED OR OVERRULED AND CONSIDER
10 APPROPRIATE RECOMMENDATIONS.

11 F. THE ADVISORY COUNCIL MAY CONDUCT PERIODIC ANALYSES OF AGENCY POLICY
12 AFFECTING MINING, INCLUDING POLICY AS REFLECTED BY DECISIONS OF
13 ADMINISTRATIVE LAW JUDGES AND AGENCY DIRECTORS.

14 G. IN ADOPTING ADMINISTRATIVE RULES AND BUDGETS, EACH STATE AGENCY
15 SHALL INCLUDE THE COMMENTS OF THE ADVISORY COUNCIL IN THE OFFICIAL RECORD.
16 IN ADOPTING RULES AFFECTING MINING, EACH STATE AGENCY SHALL ACCEPT THE
17 RECOMMENDATIONS OF THE ADVISORY COUNCIL IF THE AGENCY DIRECTOR FINDS THEM TO
18 BE PRACTICABLE AND IN THE BEST INTERESTS OF THE PUBLIC AND OF MINING IN THIS
19 STATE, THEY ARE AUTHORIZED BY LAW AND, FOR THE STATE LAND COMMISSIONER, THEY
20 ARE CONSISTENT WITH THE BEST INTERESTS OF THE TRUST."

21 Renumber to conform

22 Page 9, line 1, strike "OR MITIGATION"

23 Line 2, strike "OF A NONHAZARDOUS RELEASE"; strike "OR IN"

24 Strike lines 3 and 4, insert "INCLUDING MITIGATION OF A NONHAZARDOUS RELEASE
25 UNDERTAKEN PURSUANT TO AN ORDER ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL
26 QUALITY PURSUANT TO SECTION 49-286."

27 Page 10, strike lines 10 through 16, insert:

28 "A. New well construction and withdrawal, treatment and reinjection OF
29 GROUNDWATER into the aquifer ~~of groundwater~~ that occur as a part of and on
30 the site of a remedial action undertaken pursuant to CERCLA are exempt from
31 this chapter, except that:"

1 Page 10, line 17, strike "section" insert "SUBSECTION"

2 Line 18, strike "and" insert a comma; after "45-600" insert "AND 45-605"

3 Line 23, strike "section" insert "SUBSECTION"

4 Between lines 28 and 29, insert:

5 "B. NEW WELL CONSTRUCTION AND WITHDRAWAL, TREATMENT AND REINJECTION OF
6 GROUNDWATER INTO THE AQUIFER THAT OCCUR AS PART OF A REMEDIAL ACTION RELATING
7 TO MINING ACTIVITIES OR A MITIGATION ORDER RELATING TO MINING ACTIVITIES AND
8 THAT ARE UNDERTAKEN PURSUANT TO TITLE 49, CHAPTER 2, ARTICLE 5 FOR THE
9 PURPOSE OF PREVENTING THE MIGRATION OF A HAZARDOUS OR NONHAZARDOUS SUBSTANCE
10 ARE EXEMPT FROM THIS CHAPTER, EXCEPT THAT:

11 1. A WELL THAT IS EXEMPT UNDER THIS SUBSECTION IS SUBJECT TO SECTIONS
12 45-594, 45-595, 45-596, 45-600 AND 45-605, BUT AUTHORIZATION TO DRILL IS NOT
13 REQUIRED BEFORE DRILLING.

14 2. IF THE GROUNDWATER THAT IS WITHDRAWN IS NOT REINJECTED INTO THE
15 AQUIFER, THE GROUNDWATER SHALL BE PUT TO REASONABLE AND BENEFICIAL USE. IF
16 THE GROUNDWATER IS WITHDRAWN WITHIN AN ACTIVE MANAGEMENT AREA AND IS NOT
17 REINJECTED INTO THE AQUIFER, THE GROUNDWATER SHALL BE PUT TO REASONABLE AND
18 BENEFICIAL USE WITHIN THE SAME ACTIVE MANAGEMENT AREA AS FOLLOWS:

19 (a) AT THE MINING FACILITY PURSUANT TO A GROUNDWATER WITHDRAWAL PERMIT
20 ISSUED UNDER SECTION 45-514 OR A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT
21 ISSUED UNDER SECTION 45-464.

22 (b) AT ANOTHER LOCATION PURSUANT TO A GRANDFATHERED RIGHT ISSUED UNDER
23 ARTICLE 5 OF THIS CHAPTER OR A SERVICE AREA RIGHT UNDER ARTICLE 6 OF THIS
24 CHAPTER.

25 3. A PERSON WHO USES GROUNDWATER WITHDRAWN IN AN ACTIVE MANAGEMENT
26 AREA PURSUANT TO THIS SUBSECTION SHALL PAY THE GROUNDWATER WITHDRAWAL FEE FOR
27 THE GROUNDWATER THE PERSON WITHDREW OR RECEIVED. THE GROUNDWATER USE IS
28 SUBJECT TO ARTICLES 8, 8.1, 9, 10, 11 AND 12 OF THIS CHAPTER. A CITY, TOWN,
29 PRIVATE WATER COMPANY OR IRRIGATION DISTRICT THAT SERVES GROUNDWATER PURSUANT
30 TO ARTICLE 6 OF THIS CHAPTER IS DEEMED TO HAVE USED THE GROUNDWATER FOR THE
31 PURPOSES OF THIS PARAGRAPH."

32 Reletter to conform

1 Page 10, line 43, strike "CHAPTER" insert "ARTICLE"

2 Line 44, strike "INCLUDES" insert "MEANS"

3 Page 13, line 28, strike "paragraph" insert "PARAGRAPHS"; after "8" insert "AND 9"

4 Page 14, strike lines 3 through 7, insert:

5 "9. A METAL MINING FACILITY THAT IS LOCATED IN BOTH THE UPPER SAN
6 PEDRO AND DOUGLAS GROUNDWATER BASINS MAY TRANSPORT GROUNDWATER BETWEEN THE
7 TWO BASINS TO THE EXTENT THAT THE TRANSPORTATION IS NECESSARY TO COMPLY WITH
8 AN ORDER ISSUED BY THE DIRECTOR OF ENVIRONMENTAL QUALITY PURSUANT TO TITLE
9 49, CHAPTER 2, ARTICLE 5, INCLUDING AN ORDER ISSUED BY THE DIRECTOR OF
10 ENVIRONMENTAL QUALITY PURSUANT TO SECTION 49-286. BEFORE TRANSPORTING
11 GROUNDWATER PURSUANT TO THIS PARAGRAPH, A METAL MINING FACILITY SHALL GIVE
12 WRITTEN NOTICE TO THE DIRECTOR OF WATER RESOURCES, WHICH SHALL INCLUDE A COPY
13 OF THE ORDER REQUIRING THE REMEDIAL ACTION OR MITIGATION ACTIVITIES."

14 Strike lines 29 through 32

15 Renumber to conform

16 Page 18, line 32, after "5" insert ", INCLUDING MITIGATION OF A NONHAZARDOUS
17 RELEASE UNDERTAKEN PURSUANT TO AN ORDER ISSUED BY THE DEPARTMENT OF
18 ENVIRONMENTAL QUALITY PURSUANT TO SECTION 49-286"

19 Page 19, line 1, strike "OR A MITIGATION OF NONHAZARDOUS RELEASES"

20 Line 2, after "5" insert ", INCLUDING MITIGATION OF A NONHAZARDOUS RELEASE
21 UNDERTAKEN PURSUANT TO AN ORDER ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL
22 QUALITY PURSUANT TO SECTION 49-286"

23 Between lines 31 and 32, insert:

24 "Sec. 14. Section 49-104, Arizona Revised Statutes, is amended to
25 read:

26 49-104. Powers and duties of the department and director

27 A. The department shall:

28 1. Formulate policies, plans and programs to implement this title to
29 protect the environment.

30 2. Stimulate and encourage all local, state, regional and federal
31 governmental agencies and all private persons and enterprises that have
32 similar and related objectives and purposes, cooperate with those agencies,

1 persons and enterprises and correlate department plans, programs and
2 operations with those of the agencies, persons and enterprises.

3 3. Conduct research on its own initiative or at the request of the
4 governor, the legislature or state or local agencies pertaining to any
5 department objectives.

6 4. Provide information and advice on request of any local, state or
7 federal agencies and private persons and business enterprises on matters
8 within the scope of the department.

9 5. Consult with and make recommendations to the governor and the
10 legislature on all matters concerning department objectives.

11 6. Promote and coordinate the management of air resources to assure
12 their protection, enhancement and balanced utilization consistent with the
13 environmental policy of this state.

14 7. Promote and coordinate the protection and enhancement of the
15 quality of water resources consistent with the environmental policy of this
16 state.

17 8. Encourage industrial, commercial, residential and community
18 development that maximizes environmental benefits and minimizes the effects
19 of less desirable environmental conditions.

20 9. Assure the preservation and enhancement of natural beauty and
21 man-made scenic qualities.

22 10. Provide for the prevention and abatement of all water and air
23 pollution including that related to particulates, gases, dust, vapors, noise,
24 radiation, odor, nutrients and heated liquids in accordance with article 3 of
25 this chapter and chapters 2 and 3 of this title.

26 11. Promote and recommend methods for the recovery, recycling and reuse
27 or, if recycling is not possible, the disposal of solid wastes consistent
28 with sound health, scenic and environmental quality policies.

29 12. Prevent pollution through the regulation of the storage, handling
30 and transportation of solids, liquids and gases that may cause or contribute
31 to pollution.

1 13. Promote the restoration and reclamation of degraded or despoiled
2 areas and natural resources.

3 14. Assist the department of health services in recruiting and training
4 state, local and district health department personnel.

5 15. Participate in the state civil defense program and develop the
6 necessary organization and facilities to meet wartime or other disasters.

7 16. Cooperate with the Arizona-Mexico commission in the governor's
8 office and with researchers at universities in this state to collect data and
9 conduct projects in the United States and Mexico on issues that are within
10 the scope of the department's duties and that relate to quality of life,
11 trade and economic development in this state in a manner that will help the
12 Arizona-Mexico commission to assess and enhance the economic competitiveness
13 of this state and of the Arizona-Mexico region.

14 17. ENSURE THAT STATE LAWS ARE CONSTRUED TO BE CONSISTENT WITH AND NO
15 MORE STRINGENT THAN THE CORRESPONDING FEDERAL LAW THAT ADDRESSES THE SAME
16 SUBJECT MATTER. IN ADDITION, ALL RULES, STANDARDS, PERMITS, VARIANCES AND
17 ORDERS ISSUED BY THE AGENCY SHALL BE CONSISTENT WITH AND NO MORE STRINGENT
18 THAN THE CORRESPONDING FEDERAL LAW THAT ADDRESSES THE SAME SUBJECT MATTER,
19 UNLESS SPECIFICALLY AUTHORIZED BY THE LEGISLATURE AND SHALL BE CONSTRUED TO
20 BE CONSISTENT WITH AND NO MORE STRINGENT THAN THE CORRESPONDING FEDERAL LAW
21 THAT ADDRESSES THE SAME SUBJECT MATTER.

22 B. The department, through the director, shall:

23 1. Contract for the services of outside advisers, consultants and
24 aides reasonably necessary or desirable to enable the department to
25 adequately perform its duties.

26 2. Contract and incur obligations reasonably necessary or desirable
27 within the general scope of department activities and operations to enable
28 the department to adequately perform its duties.

29 3. Utilize any medium of communication, publication and exhibition
30 when disseminating information, advertising and publicity in any field of its
31 purposes, objectives or duties.

1 4. Adopt procedural rules that are necessary to implement the
2 authority granted under this title, but that are not inconsistent with other
3 provisions of this title.

4 5. Contract with other agencies, including laboratories, in furthering
5 any department program.

6 6. Use monies, facilities or services to provide matching
7 contributions under federal or other programs that further the objectives and
8 programs of the department.

9 7. Accept gifts, grants, matching monies or direct payments from
10 public or private agencies or private persons and enterprises for department
11 services and publications and to conduct programs that are consistent with
12 the general purposes and objectives of this chapter. Monies received
13 pursuant to this paragraph shall be deposited in the department fund
14 corresponding to the service, publication or program provided.

15 8. Provide for the examination of any premises if the director has
16 reasonable cause to believe that a violation of any environmental law or rule
17 exists or is being committed on the premises. The director shall give the
18 owner or operator the opportunity for its representative to accompany the
19 director on an examination of those premises. Within forty-five days after
20 the date of the examination, the department shall provide to the owner or
21 operator a copy of any report produced as a result of any examination of the
22 premises.

23 9. Supervise sanitary engineering facilities and projects in this
24 state, authority for which is vested in the department, and own or lease land
25 on which sanitary engineering facilities are located, and operate the
26 facilities, if the director determines that owning, leasing or operating is
27 necessary for the public health, safety or welfare.

28 10. Adopt and enforce rules relating to approving design documents for
29 constructing, improving and operating sanitary engineering and other
30 facilities for disposing of solid, liquid or gaseous deleterious matter.

1 11. Define and prescribe reasonably necessary rules regarding the water
2 supply, sewage disposal and garbage collection and disposal for subdivisions.
3 The rules shall:

4 (a) Provide for minimum sanitary facilities to be installed in the
5 subdivision and may require that water systems plan for future needs and be
6 of adequate size and capacity to deliver specified minimum quantities of
7 drinking water and to treat all sewage.

8 (b) Provide that the design documents showing or describing the water
9 supply, sewage disposal and garbage collection facilities be submitted with a
10 fee to the department for review and that no lots in any subdivision be
11 offered for sale before compliance with the standards and rules has been
12 demonstrated by approval of the design documents by the department.

13 12. Prescribe reasonably necessary measures to prevent pollution of
14 water used in public or semipublic swimming pools and bathing places and to
15 prevent deleterious conditions at such places. The rules shall prescribe
16 minimum standards for the design of and for sanitary conditions at any public
17 or semipublic swimming pool or bathing place and provide for abatement as
18 public nuisances of premises and facilities that do not comply with the
19 minimum standards. The rules shall be developed in cooperation with the
20 director of the department of health services and shall be consistent with
21 the rules adopted by the director of the department of health services
22 pursuant to section 36-136, subsection H, paragraph 10.

23 13. Prescribe reasonable rules regarding sewage collection, treatment,
24 disposal and reclamation systems to prevent the transmission of sewage borne
25 or insect borne diseases. The rules shall:

26 (a) Prescribe minimum standards for the design of sewage collection
27 systems and treatment, disposal and reclamation systems and for operating the
28 systems.

29 (b) Provide for inspecting the premises, systems and installations and
30 for abating as a public nuisance any collection system, process, treatment
31 plant, disposal system or reclamation system that does not comply with the
32 minimum standards.

1 (c) Require that design documents for all sewage collection systems,
2 sewage collection system extensions, treatment plants, processes, devices,
3 equipment, disposal systems, on-site wastewater treatment facilities and
4 reclamation systems be submitted with a fee for review to the department and
5 may require that the design documents anticipate and provide for future
6 sewage treatment needs.

7 (d) Require that construction, reconstruction, installation or
8 initiation of any sewage collection system, sewage collection system
9 extension, treatment plant, process, device, equipment, disposal system,
10 on-site wastewater treatment facility or reclamation system conform with
11 applicable requirements.

12 14. Prescribe reasonably necessary rules regarding excreta storage,
13 handling, treatment, transportation and disposal. The rules shall:

14 (a) Prescribe minimum standards for human excreta storage, handling,
15 treatment, transportation and disposal and shall provide for inspection of
16 premises, processes and vehicles and for abating as public nuisances any
17 premises, processes or vehicles that do not comply with the minimum
18 standards.

19 (b) Provide that vehicles transporting human excreta from privies,
20 septic tanks, cesspools and other treatment processes shall be licensed by
21 the department subject to compliance with the rules.

22 15. Perform the responsibilities of implementing and maintaining a data
23 automation management system to support the reporting requirements of title
24 III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499)
25 and title 26, chapter 2, article 3.

26 16. Approve remediation levels pursuant to article 4 of this chapter.

27 C. The department may:

28 1. Charge fees to cover the costs of all permits and inspections it
29 performs to ~~insure~~ ENSURE compliance with rules adopted under section 49-203,
30 subsection A, paragraph 6, except that state agencies are exempt from paying
31 the fees. Monies collected pursuant to this subsection shall be deposited in
32 the water quality fee fund established by section 49-210.

1 2. CONTRACT WITH PRIVATE CONSULTANTS FOR THE PURPOSES OF ASSISTING THE
2 DEPARTMENT IN REVIEWING LICENSES, PERMITS OR OTHER AUTHORIZATIONS TO
3 DETERMINE WHETHER AN APPLICANT MEETS THE CRITERIA. IF THE DEPARTMENT
4 CONTRACTS WITH A CONSULTANT UNDER THIS SECTION, AN APPLICANT MAY REQUEST THAT
5 THE DEPARTMENT EXPEDITE THE APPLICATION REVIEW BY REQUESTING THAT THE
6 DEPARTMENT USE THE SERVICES OF THE CONSULTANT AND BY AGREEING TO PAY THE
7 DEPARTMENT THE COSTS OF THE CONSULTANT'S SERVICES.

8 D. The director may:

9 1. If ~~he~~ THE DIRECTOR has reasonable cause to believe that a violation
10 of any environmental law or rule exists or is being committed, inspect any
11 person or property in transit through this state and any vehicle in which the
12 person or property is being transported and detain or disinfect the person,
13 property or vehicle as reasonably necessary to protect the environment if a
14 violation exists.

15 2. Authorize in writing any qualified officer or employee in the
16 department to perform any act that the director is authorized or required to
17 do by law."

18 Renumber to conform

19 Page 28, strike lines 14 through 45

20 Page 29, strike lines 1 through 26, insert:

21 "Sec. 19. Title 49, chapter 2, article 5, Arizona Revised Statutes, is
22 amended by adding section 49-290.02, to read:

23 49-290.02. Applicability of Arizona department of water
24 resources requirements; metal mining facilities

25 A. A METAL MINING FACILITY CONDUCTING MITIGATION ACTIVITIES PURSUANT
26 TO AN ORDER ISSUED BY THE DIRECTOR OF ENVIRONMENTAL QUALITY PURSUANT TO
27 SECTION 49-286 SHALL OBTAIN AND COMPLY WITH APPLICABLE PERMITS, APPROVALS OR
28 OTHER AUTHORIZATIONS REQUIRED BY THE DEPARTMENT OF WATER RESOURCES. ON
29 CONSULTATION WITH THE DIRECTOR OF ENVIRONMENTAL QUALITY, THE DIRECTOR OF
30 WATER RESOURCES MAY WAIVE ITS APPLICABLE PERMITS, APPROVALS OR AUTHORIZATIONS
31 IF THE DIRECTOR OF WATER RESOURCES DETERMINES THAT THE PERMIT, APPROVAL OR
32 OTHER AUTHORIZATION UNREASONABLY LIMITS THE COMPLETION OF MITIGATION

1 ACTIVITIES UNDERTAKEN BY A METAL MINING FACILITY PURSUANT TO AN ORDER ISSUED
2 PURSUANT TO SECTION 49-286 AND IF THE WAIVER DOES NOT CONFLICT WITH THE
3 STATUTORY INTENT OF THE PERMIT, APPROVAL OR OTHER AUTHORIZATION. THE
4 DEPARTMENT OF WATER RESOURCES SHALL EXPEDITE THE PROCESSING AND ISSUANCE OF
5 PERMITS, APPROVALS OR AUTHORIZATIONS TO FACILITATE THE PROMPT CONDUCT OF
6 APPROVED MITIGATION ACTIVITIES UNDERTAKEN BY A METAL MINING FACILITY PURSUANT
7 TO AN ORDER ISSUED PURSUANT TO SECTION 49-286. IF THE DEPARTMENT OF WATER
8 RESOURCES FAILS TO ISSUE OR DENY A PERMIT WITHIN ONE HUNDRED TWENTY DAYS OF
9 THE DATE OF RECEIPT OF A COMPLETE APPLICATION FOR A PERMIT, APPROVAL OR
10 AUTHORIZATION REQUIRED FOR COMPLETION OF THE MITIGATION ACTIVITIES APPROVED
11 BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO AN ORDER ISSUED
12 PURSUANT TO SECTION 49-286, THE DEPARTMENT OF ENVIRONMENTAL QUALITY MAY
13 AUTHORIZE THE METAL MINING FACILITY CONDUCTING THE APPROVED MITIGATION
14 ACTIVITIES TO PROCEED WITH THOSE ACTIVITIES AND THAT METAL MINING FACILITY
15 SHALL NOT BE SUBJECT TO ANY PENALTIES FOR FAILURE TO OBTAIN THE PERMIT,
16 APPROVAL OR AUTHORIZATION FROM THE DEPARTMENT OF WATER RESOURCES, BUT SHALL
17 BE REQUIRED TO COMPLY WITH THE SUBSTANTIVE REQUIREMENTS OF SUCH PERMIT,
18 APPROVAL OR AUTHORIZATION. THE DETERMINATION OF WHETHER AN APPLICATION FOR A
19 PERMIT IS COMPLETE SHALL BE MADE BY THE DEPARTMENT OF WATER RESOURCES. A
20 METAL MINING FACILITY CONDUCTING MITIGATION ACTIVITIES PURSUANT TO AN ORDER
21 ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO SECTION 49-286
22 THAT USES GROUNDWATER WITHDRAWN IN AN ACTIVE MANAGEMENT AREA SHALL CONTINUE
23 TO PAY ANY APPLICABLE GROUNDWATER WITHDRAWAL FEE FOR THE GROUNDWATER THE
24 METAL MINING FACILITY WITHDREW AND USED OR RECEIVED AND USED.

25 B. THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE DIRECTOR OF WATER
26 RESOURCES SHALL COORDINATE THEIR EFFORTS TO EXPEDITE MITIGATION ACTIVITIES
27 UNDERTAKEN BY A METAL MINING FACILITY PURSUANT TO AN ORDER ISSUED PURSUANT TO
28 SECTION 49-286, INCLUDING OBTAINING INFORMATION PERTINENT TO SITE
29 INVESTIGATIONS, SITE MANAGEMENT AND BENEFICIAL USE OF WATER WITHDRAWN FOR
30 MITIGATION PURPOSES.

31 C. WITH RESPECT TO MITIGATION ACTIVITIES UNDERTAKEN BY A METAL MINING
32 FACILITY PURSUANT TO AN ORDER ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL

1 QUALITY PURSUANT TO SECTION 49-286, THE DIRECTOR OF WATER RESOURCES MAY WAIVE
2 ANY REGULATORY REQUIREMENT ADOPTED PURSUANT TO TITLE 45 WITH RESPECT TO A
3 SITE OR PORTION OF A SITE AS PART OF A MITIGATION ORDER ISSUED BY THE
4 DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO SECTION 49-286 FOR THAT SITE
5 OR PORTION OF A SITE IF THE REGULATORY REQUIREMENT CONFLICTS WITH THE
6 IMPLEMENTATION OF THE ORDERED MITIGATION ACTIVITIES, PROVIDED THAT THE WAIVER
7 DOES NOT RESULT IN ADVERSE IMPACTS TO OTHER LAND AND WATER USERS. NO WAIVER
8 MAY BE GRANTED UNDER THIS SUBSECTION IF IT IS PROHIBITED BY FEDERAL LAW OR IF
9 THE WAIVER WOULD JEOPARDIZE THE CONTINUED DELEGATION TO THE STATE OF
10 AUTHORITY TO IMPLEMENT A FEDERAL ENVIRONMENTAL PROGRAM.

11 Sec. 20. Purpose

12 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
13 the purpose of the mining advisory council is to review mining policy in this
14 state and provide assistance to state agencies regarding rules affecting
15 mining in this state."

16 Amend title to conform

RUSSELL L. JONES

2617rj5
03/15/2010
2:33 PM
C: myr