

AN ACT

RELATING TO STATE AGENCIES; RENAMING THE BUREAU OF MINES AND MINERAL RESOURCES; UPDATING AND CLARIFYING THE BUREAU'S MISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 19-13-6 NMSA 1978 (being Laws 1967, Chapter 158, Section 6) is amended to read:

"19-13-6. KNOWN GEOTHERMAL RESOURCES FIELDS. --

A. The commissioner shall, after consultation with the director of the bureau of geology and mineral resources, make a classification of geothermal areas that he has determined may be capable of producing geothermal resources in commercial quantities. These geothermal areas shall be classified as "known geothermal resources fields".

B. If any lands to be leased are within a known geothermal resources field, the lands shall be leased to the highest responsible qualified bidder under rules prescribed by the commissioner. The rules prescribed by the commissioner shall include notice to the public of the terms and conditions of the sale and procedures of conducting the sale, including the receipt of written bids on a competitive basis and the issuing of the lease."

Section 2. Section 22-8-34 NMSA 1978 (being Laws 1967, Chapter 16, Section 90, as amended by Laws 1999, Chapter 43,

Section 1 and also by Laws 1999, Chapter 253, Section 1) is amended to read:

"22-8-34. FEDERAL MINERAL LEASING FUNDS. --

A. Except for an annual appropriation to the instructional material fund and to the bureau of geology and mineral resources of the New Mexico institute of mining and technology, and except as provided in Subsection B of this section, all other money received by the state pursuant to the provisions of the federal Mineral Lands Leasing Act, 30 USCA 181, et seq., shall be distributed to the public school fund.

B. All money received by the state as its share of a prepayment of royalties pursuant to 30 U.S.C. 1726(b) shall be distributed as follows:

(1) a portion of the receipts, estimated by the taxation and revenue department to be equal to the amount that the state would have received as its share of royalties in the same fiscal year if the prepayment had not been made, shall be distributed to the public school fund; and

(2) the remainder shall be distributed to the common school permanent fund."

Section 3. Section 69-1-1 NMSA 1978 (being Laws 1927, Chapter 115, Section 1, as amended) is amended to read:

"69-1-1. BUREAU OF GEOLOGY AND MINERAL RESOURCES--
CREATION--DIRECTOR. --

A. There is established a "bureau of geology and mineral resources" of the state that is a division of the New Mexico institute of mining and technology and under the direction of its board of regents. The board shall appoint, as a director, a suitable person to be known as the director of the bureau of geology and mineral resources and, upon his nomination, such assistants and employees as the board deems necessary. The board may also determine the compensation of all persons employed by the bureau of geology and mineral resources, including the director, and may remove them in accordance with established personnel procedures.

B. The director of the bureau of geology and mineral resources shall be known as the state geologist."

Section 4. Section 69-1-2 NMSA 1978 (being Laws 1927, Chapter 115, Section 2, as amended) is amended to read:

"69-1-2. PURPOSES AND FUNCTIONS. --The objects and duties of the bureau of geology and mineral resources are as follows:

A. to collect, compile and publish information relative to New Mexico, geology, mining, milling, metallurgy and oil and natural gas and the refining thereof;

B. to collect typical geological and mineral specimens and samples of products; to collect photographs, models and drawings related to mines, mills, smelters, oil wells, natural gas wells and the refineries of oil and

natural gas in New Mexico;

C. to collect a library and bibliography of literature pertaining to the progress of geology, hydrogeology, mining, milling, smelting and oil and natural gas production and refining in New Mexico;

D. to map and study the geological formations of the state with special reference to their economic mineral resources, both metallic and nonmetallic, and to their location and physical and chemical characteristics pertinent to ground water resources;

E. to examine the topography and physical features of the state with reference to their practical bearing upon the citizens of New Mexico, as well as potential risks to them, including geologic hazards such as landslides, soil instabilities, earthquakes and volcanic eruptions;

F. to study the mining, milling, smelting operations and oil and natural gas production and the refining of the same carried on in the state with special reference to their improvement;

G. to prepare and publish bulletins and reports with the necessary illustrations and maps, which shall embrace both a general and detailed description of the natural resources and geology, mines, mineral deposits, both metallic and nonmetallic, ground water resources, oil wells, natural gas wells, smelters, mills, oil refineries and

natural gas refineries;

H. to make qualitative and quantitative examinations of rocks and mineral samples and specimens;

I. to assist in the education of miners, industries and the general public through lectures, publications and other means of information dissemination;

J. to consider such other scientific and economic problems and questions as in the judgment of the board of regents of New Mexico institute of mining and technology shall be deemed of value to the people of the state;

K. to communicate special information on New Mexico geology, ground water hydrology, mining, both metallic and nonmetallic, oil and natural gas and to serve as a bureau of exchange and information on the mineral, oil and natural gas and ground water resources of New Mexico;

L. to cooperate with other universities in New Mexico, the state mine inspector, the state engineer and other departments of state government as may be mutually beneficial and to cooperate with the United States geological survey and with other federal agencies in accordance with the regulations of those institutions;

M. to coordinate with the mining and minerals division and the secretary of energy, minerals and natural resources in the formulation of overall policy in the area of mining and minerals;

N. to assist the secretary of energy, minerals and natural resources with those projects that come within the expertise and jurisdiction of the bureau of geology and mineral resources; and

O. to assist the state engineer in refining understanding of the stratigraphy, structure and aquifer characteristics of geological formations in ground water basins. "

Section 5. Section 69-2-1 NMSA 1978 (being Laws 1927, Chapter 115, Section 3, as amended) is amended to read:

"69-2-1. ANNUAL REPORTS OF PROGRESS AND CONDITION. --

A. The board of regents of the New Mexico institute of mining and technology shall prepare an annual report showing the progress and condition of the bureau of geology and mineral resources, together with such other information as it deems necessary or useful or as the board may require.

B. The board of regents of the New Mexico institute of mining and technology shall provide the secretary of energy, minerals and natural resources with a copy of the annual report. "

Section 6. Section 69-2-3 NMSA 1978 (being Laws 1927, Chapter 115, Section 4, as amended) is amended to read:

"69-2-3. BUREAU REPORTS--PRINTING AND SALE. --The regular and special reports of the bureau of geology and

mineral resources shall be printed as the board of regents of the New Mexico institute of mining and technology may direct, and the reports may be distributed or sold by the board as the interests of the state or science may demand. The money now in the possession of the bureau that has been obtained and that is hereafter obtained from the sale of the reports shall be used in such manner as the board may direct."

Section 7. Section 69-2-6 NMSA 1978 (being Laws 1947, Chapter 218, Section 1) is amended to read:

"69-2-6. APPROPRIATION--COOPERATIVE SURVEY.--There is appropriated for the bureau of geology and mineral resources twenty thousand dollars (\$20,000) annually of the money received by the state from the mineral leasing land act fund, pursuant to Title 30 U.S.C., Section 191. The money appropriated hereunder shall be used to pay the expenses incurred in matching federal funds in connection with a cooperative geologic and ground water survey of the state."

Section 8. Section 69-2-7 NMSA 1978 (being Laws 1967, Chapter 143, Section 1) is amended to read:

"69-2-7. GEOTHERMAL ENERGY SOURCE--REPORTS.--

A. Any person drilling a hole on state lands to a depth of ten feet or more who encounters or whose drill cuts into a geothermal energy source of one hundred degrees centigrade or more shall, within ninety days from the date of the penetration, report in writing to the director the depth,

location and nature of the geothermal energy source.

B. As used in this section:

(1) "geothermal energy" means the natural heat of the earth or the energy, in whatever form, below the surface of the earth present in, resulting from or created by or that may be extracted from, this natural heat;

(2) "state lands" includes all land owned by the state, all land owned by school districts, beds of navigable rivers and lakes, submerged lands and lands in which mineral rights or geothermal resources have been reserved to the state; and

(3) "director" means the director of the bureau of geology and mineral resources. "

Section 9. Section 69-3-6 NMSA 1978 (being Laws 1957, Chapter 108, Section 1, as amended) is amended to read:

"69-3-6. PENETRATION OF WATER STRATUM BY MINE DISCOVERY OR DRILL HOLE--PLUGGING--REPORTS--EXCEPTIONS.-- Any person drilling a mine lode discovery or mine drill hole to a depth of ten feet or more who encounters or whose drill cuts into a water body or water-bearing stratum shall:

A. plug at a horizon and in the manner provided by the rules of the state engineer; and

B. within ninety days from the date of the discovery, report in writing the depth, location and manner of plugging the water body or water-bearing stratum to the

state engineer at the state capitol and to the director of the bureau of geology and mineral resources at Socorro, New Mexico. "

Section 10. Section 69-8-3 NMSA 1978 (being Laws 1961, Chapter 136, Section 3, as amended) is amended to read:

"69-8-3. MINING SAFETY ADVISORY BOARD. --

A. There is created a "mining safety advisory board", referred to in Chapter 69, Article 8 NMSA 1978 as the "board", consisting of thirteen members, of whom six shall represent industry, six shall be nonsupervisory production or maintenance employees and one, who shall serve as chairman and vote on all motions, shall represent the public and shall be the director of the bureau of geology and mineral resources. Two members of the board shall be appointed from each of the following industries: coal, copper, molybdenum, potash, sand and gravel and uranium. The members of the board shall be appointed by the governor for terms of six years or until their successors are appointed and qualified. Vacancies shall be filled by appointment for the unexpired term by the governor in the same manner as the original appointments. The inspector and the secretary of energy, minerals and natural resources shall be ex-officio members of the board but shall have no vote and receive no additional compensation for duties performed in connection with the board.

B. Members of the board and committees appointed by the board shall receive no salary but shall receive compensation in accordance with the provisions of the Per Diem and Mileage Act. The inspector is authorized and directed to provide the board with such clerical, technical, legal and other assistance as shall be necessary to permit the board to perform its duties as provided in the Mining Safety Act.

C. The board shall hold two regular meetings each year in the second and fourth quarters of the calendar year, at places within this state to be determined by the board. Special meetings may be called at any time by the governor, the chairman or the inspector or by any three board members. Complete minutes and records of all board meetings, proceedings and actions shall be kept and preserved."

Section 11. Section 69-25A-4 NMSA 1978 (being Laws 1979, Chapter 291, Section 4, as amended) is amended to read:

"69-25A-4. COAL SURFACE MINING COMMISSION--DUTIES.--

A. The "coal surface mining commission" is created. The commission shall consist of:

(1) the director of the bureau of geology and mineral resources of the New Mexico institute of mining and technology or his designee;

(2) the director of the department of game and fish or his designee;

(3) the secretary of environment or his designee;

(4) the chairman of the soil and water conservation commission or his designee;

(5) the director of the agricultural experiment station of New Mexico state university or his designee;

(6) the state engineer or his designee;

(7) the commissioner of public lands or his designee; and

(8) two public members who shall be appointed by the governor with the advice and consent of the senate. The public members shall have, by education, training or experience, expertise related to mining or mine reclamation.

B. The commission shall elect a chairman and other necessary officers and keep records of its proceedings.

C. The commission shall convene upon the call of the chairman or a majority of its members.

D. A majority of the commission is a quorum for the transaction of business. However, no action of the commission is valid unless concurred in by at least three of the members present.

E. The commission shall perform those duties as specified in the Surface Mining Act relating to the promulgation of regulations and as specified in Section

69-25A-29 NMSA 1978 relating to appeals from the decisions of the director.

F. No member of the commission who performs a function or duty under the Surface Mining Act may have a direct or indirect financial interest in any activity undertaken by the commission.

G. The public members shall receive per diem and mileage pursuant to the Per Diem and Mileage Act."

Section 12. Section 69-36-6 NMSA 1978 (being Laws 1993, Chapter 315, Section 6, as amended) is amended to read:

"69-36-6. MINING COMMISSION--CREATED--MEMBERS.--

A. The "mining commission" is created. The commission shall consist of seven voting members, including:

(1) the director of the bureau of geology and mineral resources of the New Mexico institute of mining and technology or his designee;

(2) the secretary of environment or his designee;

(3) the state engineer or his designee;

(4) the commissioner of public lands or his designee;

(5) the director of the department of game and fish or his designee; and

(6) two members of the public and an alternate for each, all to be appointed by the governor with the advice

and consent of the senate. The public members shall be chosen to represent and to balance environmental and mining interests while minimizing conflicts of interest. No more than one of the public members and one of the alternates appointed may belong to the same political party. When the initial appointments are made, one of the public members and his alternate will be designated to serve for two-year terms, after which all public members shall serve for four years. An alternate member may vote only in the absence of the public member for whom he is the alternate.

B. The chairman of the soil and water conservation commission and the director of the agricultural experiment station of New Mexico state university or their designees shall be nonvoting members of the commission.

C. The commission shall elect a chairman and other necessary officers and keep records of its proceedings.

D. The commission shall convene upon the call of the chairman or a majority of its members.

E. A majority of the voting members of the commission shall be a quorum for the transaction of business. However, no action of the commission shall be valid unless concurred upon by at least four of the members present.

F. No member of the commission, with the exception of one of the public members and his alternate, shall receive, or shall have received during the previous two

years, more than ten percent of his income directly or indirectly from permit holders or applicants for permits. Each member of the commission shall, upon acceptance of his appointment and prior to the performance of any of his duties, file a statement of disclosure with the secretary of state stating:

(1) the amount of money or other valuable consideration received, whether provided directly or indirectly, from persons subject to or who appear before the commission;

(2) the identity of the source of money or other valuable consideration; and

(3) whether the money or other valuable consideration was in excess of ten percent of his gross personal income in either of the preceding two years.

G. No commissioner with any financial interest affected or potentially affected by a permit action may participate in proceedings related to that permit action."

Section 13. Section 74-6-2 NMSA 1978 (being Laws 1967, Chapter 190, Section 2, as amended) is amended to read:

"74-6-2. DEFINITIONS.--As used in the Water Quality Act:

A. "water contaminant" means any substance that could alter, if discharged or spilled, the physical, chemical, biological or radiological qualities of water.

"Water contaminant" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954;

B. "water pollution" means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property;

C. "wastes" means sewage, industrial wastes or any other liquid, gaseous or solid substance that may pollute any waters of the state;

D. "sewer system" means pipelines, conduits, pumping stations, force mains or any other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

E. "treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes;

F. "sewerage system" means a system for disposing of wastes, either by surface or underground methods, and includes sewer systems, treatment works, disposal wells and other systems;

G. "water" means all water, including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;

H. "person" means an individual or any other entity, including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;

I. "commission" means the water quality control commission;

J. "constituent agency" means, as the context may require, any or all of the following agencies of the state:

- (1) the department of environment;
- (2) the state engineer and the interstate stream commission;
- (3) the department of game and fish;
- (4) the oil conservation commission;
- (5) the state parks division of the energy, minerals and natural resources department;
- (6) the New Mexico department of agriculture;
- (7) the soil and water conservation commission; and

(8) the bureau of geology and mineral resources at the New Mexico institute of mining and technology;

K. "new source" means:

(1) any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance applicable to the source; or

(2) any existing source when modified to treat substantial additional volumes or when there is a substantial change in the character of water contaminants treated;

L. "source" means a building, structure, facility or installation from which there is or may be a discharge of water contaminants directly or indirectly into water;

M. "septage" means the residual wastes and water periodically pumped from a liquid waste treatment unit or from a holding tank for maintenance or disposal purposes;

N. "sludge" means solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility that is associated with the treatment of these wastes. "Sludge" does not mean treated effluent from a wastewater treatment plant;

O. "substantial adverse environmental impact" means that an act or omission of the violator causes harm or

damage:

(1) to human beings; or

(2) that amounts to more than ten thousand dollars (\$10,000) damage or mitigation costs to flora, including agriculture crops; fish or other aquatic life; waterfowl or other birds; livestock or wildlife or damage to their habitats; ground water or surface water; or the lands of the state;

P. "federal act" means the Federal Water Pollution Control Act, its subsequent amendment and successor provisions; and

Q. "standards of performance" means any standard, effluent limitation or effluent standard adopted pursuant to the federal act or the Water Quality Act."

Section 14. Section 74-6-3 NMSA 1978 (being Laws 1967, Chapter 190, Section 3, as amended) is amended to read:

"74-6-3. WATER QUALITY CONTROL COMMISSION CREATED. --

A. There is created the "water quality control commission" consisting of:

(1) the secretary of environment or a member of his staff designated by him;

(2) the director of the department of game and fish or a member of his staff designated by him;

(3) the state engineer or a member of his staff designated by him;

(4) the chairman of the oil conservation commission or a member of his staff designated by him;

(5) the director of the state parks division of the energy, minerals and natural resources department or a member of his staff designated by him;

(6) the director of the New Mexico department of agriculture or a member of his staff designated by him;

(7) the chairman of the soil and water conservation commission or a soil and water conservation district supervisor designated by him;

(8) the director of the bureau of geology and mineral resources at the New Mexico institute of mining and technology or a member of his staff designated by him; and

(9) three representatives of the public to be appointed by the governor for terms of four years and who shall be compensated from the budgeted funds of the department of environment in accordance with the provisions of the Per Diem and Mileage Act.

B. No member of the commission shall receive, or shall have received during the previous two years, a significant portion of his income directly or indirectly from permit holders or applicants for a permit and shall, upon the acceptance of his appointment and prior to the performance of any of his duties, file a statement of disclosure with the secretary of state disclosing any amount of money or other

valuable consideration, and its source, the value of which is in excess of ten percent of his gross personal income in each of the preceding two years, that he received directly or indirectly from permit holders or applicants for permits required under the Water Quality Act.

C. The commission shall elect a chairman and other necessary officers and shall keep a record of its proceedings.

D. A majority of the commission constitutes a quorum for the transaction of business, but no action of the commission is valid unless concurred in by six or more members present at a meeting.

E. The commission is the state water pollution control agency for this state for all purposes of the federal act and the wellhead protection and sole source aquifer programs of the federal Safe Drinking Water Act and may take all action necessary and appropriate to secure to this state, its political subdivisions or interstate agencies the benefits of that act and those programs.

F. The commission is administratively attached, as defined in the Executive Reorganization Act, to the department of environment. "
