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ARIZONA MINING LAW CHANGE - 1989

Circular No. 30, September 1990

Laws and requirements for prospecting permits, leases, rents and royalties on mineral deposits on State Trust Lands have been changed. The First Regular Session of the Thirty-ninth Legislature of the State of Arizona has enacted an amendment to the Arizona Revised Statutes, ARS 27-233 through ARS 27-276. The changes were made to bring the statutes into agreement with a recent Arizona Supreme Court decision, generally known as the Kadish decision, declaring certain provisions of the statutes illegal.

The changes affect minimum royalty rates, appraisals of fair market value of mineral deposits, appraisal and reappraisal of royalty rates, issuance of prospecting permits, minimum rental rates, and authority to review lessee business records.

The changes went into effect on June 28, 1989. The changes affect only locatable mineral deposits on State Trust Lands.

A copy of the new legislation, Laws of 1989, Chapter 288, Senate Bill 1310 as enacted is included at the end of this circular.

In a July 18, 1989 letter from State Land Commissioner M. Jean Hassell to mineral leaseholders and prospecting permittees, the law changes were explained as follows:

1. "Before issuing a new mineral lease, the Land Department must appraise land rentals and royalty rates for mineral leases and certain minimum rates are prescribed as described hereafter:
 - a. The minimum royalty must be no less than 2% of the gross value of all recovered minerals or mineral products, for new mineral leases issued after the effective date of the new statute, i.e., June 28, 1989.
 - b. Land rentals will not be less than 75 cents per acre.
 - c. For existing mineral leases, the royalty rate may not be less than would have been paid under the previous mineral royalty statute, i.e., 5% of net value after deductions for processing and transportation costs and taxes, and the new royalty rate shall be effective as of December 10, 1987.

2. For new leases, reappraisals of the royalty rate shall be made at the end of the first year of commercial production and at the renewal of the lease; and, reappraisals may be made if changes in mineral recovery technology or the discovery of new minerals substantially changes the value of the State's leasehold interest.
3. The cost of the appraisal shall be assessed against the lessee.
4. Existing state mineral leases remain in effect for the unexpired term of the lease and the Land Department within 180 days (from June 8th) shall set a new royalty and land rental for those leases which may not be lower than the previous statutory rate.
5. The Land Commissioner may deny prospecting permit applications for reasons specified in the statute.
6. The Land Commissioner has the authority to review relevant lessee business records for royalty collection and appraisal purposes.
7. The Land Commissioner may auction mineral leases on lands where no mining claim has been located or where a prospecting permit or mineral lease has been terminated or not renewed by the permittee or lessee."

Laws and Regulations Governing Mineral Rights in Arizona published by the Arizona Department of Mines and Mineral Resources explains acquisition of minerals rights on state and federal land in detail. The book is recommended for anyone planning to become involved in acquiring or holding mineral rights on state or federal land in Arizona. The changes reported in this circular have not yet been incorporated into the book.

MINERAL LEASES AND MINERAL EXPLORATION PERMITS

CHAPTER 288

SENATE BILL 1310

Changes or additions in text are indicated by
CAPITALS; deletions by strikeouts

AN ACT

RELATING TO MINERALS, OIL AND GAS, PRESCRIBING APPRAISAL, COMPUTATION AND ASSESSMENT OF MINERAL RENTAL, ROYALTY AND COSTS FOR STATE LANDS; PROVIDING FOR INTEREST, PENALTIES AND LIENS FOR UNPAID MINERAL RENT AND ROYALTY; PRESCRIBING APPEAL; PROVIDING FOR AUCTION OF STATE MINERAL LEASES; PRESCRIBING EFFECT, RENTAL AND ROYALTY FOR CERTAIN EXISTING LEASES; PROVIDING FOR TERMINATION OF A MINERAL LEASE BY THE LESSEE UPON WRITTEN NOTICE TO THE COMMISSIONER; PROVIDING FOR INSPECTIONS, INVESTIGATIONS, AUDITS, WRITTEN REPORT AND CONFIDENTIALITY OF CERTAIN INFORMATION; AUTHORIZING CERTAIN DISCRETIONARY ISSUANCE AND DENIAL OF STATE MINERAL EXPLORATION PERMITS, MINERAL LEASES AND MINERAL LEASE RENEWALS; MAKING CONFORMING AND TECHNICAL CHANGES; PRESCRIBING ENFORCEMENT AND AUDITOR GENERAL REVIEW AND REPORT; AMENDING SECTION 27-233, ARIZONA REVISED STATUTES; REPEALING SECTION 27-234, ARIZONA REVISED STATUTES; AMENDING TITLE 27, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 27-234; AMENDING SECTION 27-235, 27-238 AND 27-251, ARIZONA REVISED STATUTES; AMENDING TITLE 27, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 27-239, AND AMENDING TITLE 27, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 27-276.

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

Section 1. Section 27-233, Arizona Revised Statutes, is amended to read:

27-233. Preferred right of locator to lease land; discovery work; lease renewal.

A. The locator of a lode mining claim or claims on state lands pursuant to this article on APPROVAL OF THE STATE AND COMMISSIONER shall have a preferred right to a mineral lease of each claim within ninety days after the date of location. THE COMMISSIONER MAY DENY THE APPLICATION FOR A MINERAL LEASE FOR ANY OF THE REASONS LISTED IN SECTION 27-251, SUBSECTION B.

B. The locator of a lode mining claim located pursuant to section 27- 232 shall be required to perform the discovery work required by law for mining claims under the laws of the United States within the ninety-day

period or an equivalent amount of development drilling of a reasonable value of one hundred dollars on each claim. The development drilling may be centrally located and need not be upon each individual claim, but shall be so located as to be part of a plan of development for the group , and in no event shall the minimum requirement prescribed for each individual claim be dispenses with. The locator shall not receive a lease unless he submits to the state land commissioner satisfactory proof of the performance of such discovery work within such reasonable time as the STATE land commissioner prescribes.

C. Upon application to the commissioner, not less than thirty nor more than sixty days prior to the expiration of the lease, the lessee of mineral lands, if he is not delinquent in the payment of rental or royalty on the date of expiration of the lease, shall have a preferred right to renew the lease bearing even date with the expiration of the old lease for a term of twenty years. THE COMMISSIONER MAY DENY THE RENEWAL APPLICATION FOR ANY REASON LISTED IN SECTION 27-251, SUBSECTION B, PARAGRAPHS 1 THROUGH 4.

Sec. 2. Repeal

Section 27-234, Arizona Revised Statutes, is repealed.

Sec. 3. Title 27, chapter 2, article 3, Arizona Revised Statutes,

is amended by adding a new section 27-234, to read:

27-234. Rent; royalty; appeal; interest; penalty; lien

A. BEFORE ISSUING A MINERAL LEASE THE STATE LAND COMMISSIONER SHALL ESTABLISH THE ANNUAL LAND RENTAL FOR THE MINERAL LEASE. THE RENTAL SHALL BE BASED ON AN APPRAISAL THAT CONSIDERS ONLY NONMINING USES OF COMPARABLE LAND. THE ANNUAL RENTAL:

1. SHALL NOT BE LESS THAN SEVENTY-FIVE CENTS PER ACRE.
2. IS PAYABLE IN ADVANCE OF EXECUTING THE MINERAL LEASE AGREEMENT BY THE COMMISSIONER AND AT THE BEGINNING OF EACH ANNUAL PERIOD THEREAFTER.

B. IN ADDITION TO THE ANNUAL LAND RENTAL PAYMENT, A ROYALTY FEE IS IMPOSED OF AT LEAST TWO PER CENT BASED ON THE GROSS VALUE OF ALL OF THE RECOVERED MINERALS OR MINERAL PRODUCTS. THE ROYALTY RATE FOR EACH MINERAL LEASE SHALL BE THE APPRAISED TRUE VALUE OF THE LEASEHOLD INTERESTS OF THIS STATE. ESTABLISHED ACCORDING TO THE APPRAISAL STANDARD PRESCRIBED BY SUBSECTION C OF THIS SECTION AND EXPRESSED AS A PERCENTAGE OF THE GROSS VALUE. THE GROSS VALUE SHALL BE BASED ON THE MONTHLY AVERAGE PUBLISHED UNIT PRICE FOR MINERALS AND MINERAL PRODUCTS AS CITED IN COMMERCIAL COMMODITIES OR TRADING INDEXES OR TRADING JOURNALS AS DETERMINED BY THE COMMISSIONER AND SPECIFIED IN THE LEASE. IF A MINERAL

PRODUCT DOES NOT HAVE A PUBLISHED PRICE, THE GROSS VALUE SHALL BE ESTABLISHED BY REFERENCE TO THE TOTAL AMOUNT PAID AT THE FIRST POINT OF SALE OR THE VALUE AT THE POINT OF USE.

C. THE COMMISSIONER SHALL APPRAISE THE RIGHT TO EXTRACT MINERALS FROM THE TRUST LAND BEFORE ISSUING A MINERAL LEASE IN ORDER TO DETERMINE WHETHER A ROYALTY RATE GREATER THAN THE MINIMUM RATE ESTABLISHED BY STATUTE IS JUSTIFIED TO OBTAIN A FAIR VALUE FOR THE MINERAL ORES OR PRODUCTS. AT THE END OF THE FIRST YEAR OF COMMERCIAL PRODUCTION, THE COMMISSIONER SHALL REAPPRAISE THE ROYALTY RATE TO DETERMINE IF THERE SHOULD BE AN ADJUSTMENT, BUT IN NO CASE THE ROYALTY RATE BE SET BELOW THE MINIMUM PRESCRIBED BY SUBSECTION B OF THIS SECTION. ROYALTY RATE APPRAISALS SHALL BE CONDUCTED ACCORDING TO STANDARD APPRAISAL METHODOLOGY TO ESTABLISH THE VALUE OF THE LEASEHOLD INTEREST OF THIS STATE BASED, TO THE EXTENT FEASIBLE, ON COMPARABLE ROYALTY RATES FOR COMPARABLE MINERAL LEASES. THE ROYALTY RATE SHALL BE REAPPRAISED AT THE TIME A MINERAL LEASE IS RENEWED AND MAY BE REAPPRAISED DURING THE TERM OF THE LEASE IF CHANGES IN MINERAL RECOVERY TECHNOLOGY OR THE DISCOVERY OF NEW MINERALS SUBSTANTIALLY CHANGES THE VALUE OF THE STATE LEASEHOLD INTEREST.

D. FOR MINES EXISTING ON STATE LANDS ON JUNE 8, 1989, THE ROYALTY PAID UNDER THIS SECTION SHALL NOT BE LESS THAN THE ROYALTY WHICH WOULD HAVE BEEN PAID UNDER STATUTES IN EFFECT IMMEDIATELY BEFORE JUNE 8, 1989.

E. THE COSTS OF ALL APPRAISALS CONDUCTED UNDER THIS SECTION SHALL BE ASSESSED AGAINST THE LESSEE AND ADDED TO THE AMOUNT DUE AS RENTAL UNDER THIS ELECTION.

F. THE DEPARTMENT SHALL REVIEW ALL STATE AND COUNTY PROPERTY TAX ASSESSMENT INFORMATION RELEVANT TO THE MINERAL LEASE. THE DEPARTMENT SHALL MAINTAIN THAT INFORMATION ON A CONFIDENTIAL BASIS AS PRESCRIBED BY SECTION 42-108.

G. EVERY MINERAL LEASE OF THE STATE LAND SHALL REQUIRE THE LESSEE TO MAKE THE FOLLOWING RECORDS AVAILABLE ON AN ANNUAL BASIS:

1. ITEMIZED STATEMENTS OF MINERAL PRODUCTION.
2. RELEVANT TAX RECORDS.
3. ADDITIONAL RELEVANT RECORDS PERTINENT TO APPRAISAL, COMPLIANCE WITH THE LEASE AND MINERAL

PRODUCTION DEEMED NECESSARY BY THE COMMISSIONER.

H. THE INFORMATION OBTAINED UNDER SUBSECTION G, PARAGRAPH 2 OF THIS SECTION AND ANY TRADE SECRETS, AS DEFINED IN SECTION 23-401, ARE CONFIDENTIAL.

I. MINERAL LESSEES SHALL MAKE MONTHLY ROYALTY PAYMENTS BASED ON THE MINERAL PRODUCTION ACTIVITY OF THE PREVIOUS MONTH.

J. APPEALS OF THE APPRAISAL DECISION OF THE COMMISSIONER MAY BE TAKEN PURSUANT TO SECTION 37-215 TO THE BOARD OF APPEALS, ESTABLISHED BY SECTION 37-213, WHICH SHALL AFFIRM, MODIFY OR REVERSE THE DECISION OF THE COMMISSIONER WITHIN ONE HUNDRED EIGHTY DAYS, DECISIONS OF THE BOARD TO APPEALS UNDER THIS SUBSECTION ARE SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. AS A CONDITION OF THE APPEAL, THE LESSEE MUST CONTINUE TO MAKE ALL RENTAL AND ROYALTY PAYMENTS DUE BASED ON THE COMMISSIONER'S FINAL APPRAISAL DECISION, AND THE COURT SHALL NOT STAY THE COMMISSIONER'S DECISION, IN WHOLE OR IN PART, PENDING A FINAL DISPOSITION OF THE CASE. THE STATE TREASURER SHALL SEGREGATE RENTS AND ROYALTIES PAID WHILE AN APPEAL IS PENDING AND SHALL NOT DISTRIBUTE SUCH MONIES TO THE STATE GENERAL FUND OR TO THE TRUST BENEFICIARIES UNTIL THE APPEAL IS COMPLETED.

K. IF A LESSEE FAILS TO PAY RENT OR ROYALTY, INCLUDING APPRAISAL COSTS UNDER SUBSECTION C OF THIS SECTION, ON OR BEFORE THE DATE THE PAYMENT IS DUE, THE AMOUNT DUE ACCRUES INTEREST AT THE RATE AND IN THE MANNER DETERMINED PURSUANT TO SECTION 42-134. IN ADDITION, IF IT IS DETERMINED THAT THE FAILURE TO PAY IS NOT DUE TO REASONABLE CAUSE, A PENALTY OF FIVE PER CENT OF THE AMOUNT FOUND TO BE REMAINING DUE SHALL BE ADDED TO THE RENT OR ROYALTY FOR EACH MONTH OR FRACTION OF THE MONTH ELAPSING BETWEEN THE DUE DATE ON WHICH IT IS PAID. THE TOTAL PENALTY SHALL NOT EXCEED ONE-THIRD OF THE RENT OR ROYALTY REMAINING DUE. THE PENALTY SO ADDED TO THE RENT OR ROYALTY IS DUE AND PAYABLE ON NOTICE AND DEMAND FROM THE COMMISSIONER.

L. IF ANY RENT, ROYALTY, APPRAISAL ASSESSMENT, INTEREST OR PENALTY IS NOT PAID BY THE LESSEE WHEN DUE, THE UNPAID AMOUNTS CONSTITUTE A LIEN FROM THE DATE THE AMOUNTS BECOME DUE ON ALL PROPERTY AND RIGHTS TO PROPERTY BELONGING TO THE LESSEE THAT ARE LOCATED ON STATE LAND.

Sec. 4. Section 27-235, Arizona Revised Statutes, is amended to read:

27-235. Offering leases at auction; terms of lease; termination

A. THE STATE LAND COMMISSIONER MAY OFFER MINERAL LEASES AT PUBLIC AUCTION, AFTER ADVERTISING, FOR STATE LAND ON WHICH A MINING CLAIM WAS NOT BEEN LOCATED OR A MINERAL EXPLORATION PERMIT OR MINERAL LEASE HAS BEEN TERMINATED OR NOT BEEN RENEWED BY THE LESSEE OR PERMITTEE. THE COMMISSIONER MAY ESTABLISH BY RULE THE PROCEDURE FOR CONDUCTING THE AUCTION, BUT BIDDING IS LIMITED TO A CASH BONUS TO BE PAID IN FULL BEFORE THE COMMISSIONER EXECUTES THE LEASE DOCUMENTS. THE LAND RENTAL AND ROYALTY RATE ARE NOT SUBJECT TO BIDDING.

A. B. Every mineral lease of state lands shall be for a term of twenty years.

~~B.~~ C. The lease shall confer the right.

1. To extract and ship minerals, mineral compounds and mineral aggregates from the claim located within planes drawn vertically downward through the exterior boundary lines thereof. In case of leases made pursuant to locations under ~~subsection A of~~ section 27-232, SUBSECTION A, the lease shall confer extralateral rights in the discovery vein similar to those given locators upon the public domain of the United States under the provision of ~~title 30, United States Code~~ ; section 26 (U.S. Revised Statutes, section 2322).

2. To use as much of the surface as required for purposes incident to mining.

3. Of ingress to and egress from other state lands, whether or not leased for purposes other than mining.

~~CD.~~ Every mineral lease of state lands shall provide for:

1. The performance of annual labor as required by the laws of the United States, upon each claim or group of claims in common ownership, commencing at the expiration of one year from the date of location, and for furnishing proof thereof to the commissioner.

2. The fencing of all shafts, prospect holes, adits, tunnels and other dangerous mine workings for the protection of PUBLIC HEALTH AND SAFETY AND LIVESTOCK.

3. The construction of necessary improvements and installation of necessary machinery and equipment with the right to remove it upon expiration, termination or abandonment of the lease, if all monies owing to the state under the terms of the lease have been paid.

4. The cutting and use of timber and stone upon the claim, not otherwise appropriated for fuel construction of necessary improvements, or for drains, roadways, tramways, supports, or other necessary purposes.

5. The right of the lessee and his assigns to transfer the lease.

6. Termination of the lease by the commissioner upon written notice specially setting forth the default for which forfeiture is declared, and preserving the

right to cure the default within a stated period of not less than thirty days.

E. THE LESSEE OF MINERAL LEASE, IF NOT DELINQUENT IN THE PAYMENT OF RENT OR ROYALTY TO THE DATE OF TERMINATION, MAY TERMINATE THE LEASE AT ANY TIME DURING ITS TERM BY GIVING THE COMMISSIONER THIRTY DAYS WRITTEN NOTICE OF THE TERMINATION.

Sec. 5. Section 27-238, Arizona Revised Statutes, is amended to read:

27-238. Existing leases

A. Every mineral lease in effect on June 16, 1941 under the provisions of section 2973, revised code of 1928, shall remain in effect for the unexpired term for which it was granted, without right of renewal, or, at the option of the lessee, may be superseded by a lease as provided by this article.

B. EVERY MINERAL LEASE AND MINERAL EXPLORATION PERMIT ISSUED UNDER THIS ARTICLE AND ARTICLE 4 OF THIS CHAPTER WHICH HAD NOT EXPIRED OR BEEN TERMINATED BY THE DEPARTMENT AS OF JUNE 8, 1989 SHALL BE IN EFFECT FOR THE UNEXPIRED TERM FOR WHICH IT WAS GRANTED. WITHIN ONE HUNDRED EIGHTY DAYS AFTER JUNE 8, 1989 THE STATE LAND COMMISSIONER SHALL SET THE RENTAL AND ROYALTY ACCORDING TO THE APPRAISAL STANDARDS PRESCRIBED BY SECTION 27-234 FOR ANY MINERAL LEASE OR MINERAL EXPLORATION PERMIT ON JUNE 8, 1989 AND THAT RENTAL AND ROYALTY ARE EFFECTIVE AS OF DECEMBER 10, 1987.

Sec. 6. Title 27, chapter 2, article 3, Arizona Revised Statutes, is amended by adding section 27-239. to read:

27-239. Inspections, investigations and audits

A. THE STATE LAND COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED REPRESENTATIVE MAY ENTER, AND THE LESSEE SHALL MAINTAIN ACCESS TO THE STATE LAND HELD UNDER A MINERAL LEASE AT REASONABLE TIMES TO INSPECT THE WORKINGS, IMPROVEMENTS AND OTHER FACILITIES USED TO EXTRACT OR SEVER MINERALS, COMMON MINERAL PRODUCTS, MATERIALS OR PROPERTY FROM STATE LANDS.

B. THE COMMISSIONER OR HIS AUTHORIZED REPRESENTATIVE MAY ENTER AT REASONABLE TIMES TO:

1. OBTAIN FACTUAL DATA OR ACCESS TO RECORDS PERTINENT TO MINERAL PRODUCTION REQUIRED TO BE KEPT UNDER THE TERMS OF THE LEASE.

2. OTHERWISE ASCERTAIN COMPLIANCE WITH LAW AND OTHER TERMS OF THE LEASE.

C. INSPECTIONS, INVESTIGATIONS AND AUDITS UNDER SUBSECTION A SHALL BE ON REASONABLE NOTICE TO THE LESSEE UNLESS REASONABLE GROUNDS EXIST TO BELIEVE

THAT NOTICE WOULD FRUSTRATE THE ENFORCEMENT OF LAW OR TERMS OF THE LEASE. THE COMMISSIONER MAY, AND IF REQUIRED BY SHALL, APPLY FOR AND OBTAIN WARRANTS FOR ENTRY AND INSPECTION.

D. THE COMMISSIONER MAY REQUIRED A LESSEE TO APPEAR AT REASONABLE TIMES AND ON REASONABLE NOTICE AT THE COMMISSIONER'S OFFICE AND PRODUCE SUCH RECORDS AND INFORMATION AS ARE SPECIFIED IN THE NOTICE TO DETERMINE COMPLIANCE WITH THE TERMS OF THE LEASE.

E. THE COMMISSIONER SHALL PROVIDE TO THE LESSEE A WRITTEN REPORT OF EACH INSPECTION, INVESTIGATION AND AUDIT UNDER THIS SECTION.

F. TAX RECORDS AND TRADE SECRETS, AS DEFINED IN SECTION 23-401, OBTAINED UNDER THIS SECTION ARE CONFIDENTIAL.

Sec. 7. Section 27-251, Arizona Revised Statutes, is amended to read:

27-251. Application for mineral exploration permit

A. Any natural person over eighteen years of age and any other person qualified to transact business in this state may apply to the STATE LAND commissioner for a mineral exploration permit on the state land in one or more of the rectangular subdivisions of twenty acres, more or less, or lots, in any one section of the public land survey. Such application shall be in writing and signed by the applicant, or an authorized agent or attorney for the applicant, and shall contain the name and address of the applicant, a description according to the public land survey of the state land for which the applicant seeks a mineral exploration permit, and such other information as the commissioner may ~~by regulation~~ prescribe BY RULE. The application shall be filled with the STATE LAND department and shall be accompanied by payment to the department of a filing fee of twenty-five dollars. Each application meeting the requirements of this section shall be stamped by the department with the time and date it is filed with the department. The application shall have priority over any other application for a mineral exploration permit involving the same state land which may be filed with the department subsequent to such time and date, and such land shall be deemed withdrawn from location of mineral claims ~~so~~ AS long as the application is pending.

B. Not less than thirty days nor more than forty-five days from the filing of the application with the department, provided there is no prior application for a mineral exploration permit involving the same state land then pending before the department, or if such prior application is then pending but is subsequently canceled, not more than fifteen days after it is canceled, the department shall mail to the applicant, ~~by registered or certified mail~~ at the address shown on the application ~~a~~ written notice designating the state land described in the application which, at the time the application was filed with the department, was open to entry and location as a mineral claim or claims upon discovery of a valuable mineral deposit thereon, the amount or rental required to be paid for the mineral exploration permit as therein

provided, and whether a bond will be required under the provisions of section 27-255 as a condition to issuance of such permit. If, within fifteen days after the mailing of such notice, the applicant pays to the department as rental for the permit the amount of two dollars per acre for each acre of state land designated in the notice and files with the department the bond, if any, required under section 27-255, AND IF THE COMMISSIONER FINDS THAT ISSUING THE PERMIT IS IN THE BEST INTEREST OF THE TRUST, the commissioner shall issue to the applicant a mineral exploration permit for the state land designated in the notice. THE COMMISSIONER MAY DENY THE APPLICATION FOR ANY OF THE FOLLOWING REASONS:

1. THE APPLICATION WAS NOT MADE IN GOOD FAITH.
2. THE PROPOSED PROSPECTING OR POSSIBLE FUTURE MINING ACTIVITIES WOULD NOT BE THE HIGHEST AND BEST USE OF THE TRUST LANDS.
3. THE VALUE AND INCOME POTENTIAL IF SURROUNDING TRUST LANDS WOULD BE ADVERSELY AFFECTED AND THE BENEFIT FROM PROPOSED PROSPECTING AND FUTURE MINING ACTIVITY CANNOT REASONABLY BE EXPECTED TO BE GREATER THAN THE DIMINISHED VALUE OF THOSE SURROUNDING TRUST LANDS.
4. THE PROPOSED OPERATIONS WOULD VIOLATE APPLICABLE STATE OR FEDERAL LAW.
5. THE COMMISSIONER DETERMINES THAT THE PROPOSED PROSPECTING ACTIVITIES OR POSSIBLE FUTURE MINING ACTIVITIES WILL CREATE A LIABILITY TO THE STATE GREATER THAN THE INCOME FROM THE PROPOSED OPERATIONS.

C. During the period such mineral exploration permit is in ~~force and~~ effect no person except the permittee and the authorized agents and employees of the permittee shall be entitled to explore for minerals on the state land covered by the permit, and no mineral claim or mineral lease shall be located or issued on such land except as provided in this article. If the applicant fails to make the payment or furnish the bond within the period of fifteen days, the application shall be deemed canceled and of no further effect.

Sec. 8. Title 27, chapter 2, article 5, Arizona Revised statutes, is amended by adding section 27-276, to read:

27-276. Enforcement

LEASES ISSUED AND EXECUTED UNDER THIS ARTICLE ARE SUBJECT TO THE ENFORCEMENT PROVISIONS PRESCRIBED BY SECTION 27-239.

Sec. 9. Auditor general review and report on state land mineral
leasing

The auditor general shall review and, not later than December 31, 1991, report to the governor, the president of the senate and the speaker of the house of

representatives on the status of mineral leasing on state trust lands. The review and report shall include:

1. The performance of the state land department in enforcing the provisions of this act.
2. The economic impact of this act.

Sec. 10. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor, June 28, 1989.

Filed in the Office of the Secretary of State, June 28, 1989.