

AN ACT

RELATING TO MINING; AMENDING SECTIONS OF THE ABANDONED MINE RECLAMATION ACT TO CLARIFY JURISDICTION OF THAT ACT.

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

SECTION 1. Section 69-25B-3 NMSA 1978 (being Laws 1980, Chapter 87, Section 3, as amended) is amended to read:

"69-25B-3. DEFINITIONS.--As used in the Abandoned Mine Reclamation Act:

A. "director" means the director of the mining and minerals division of the energy, minerals and natural resources department;

B. "eligible lands and water" means all lands and water eligible for expenditures pursuant to the federal Surface Mining Control and Reclamation Act of 1977, as amended;

C. "emergency" means a sudden danger or impairment that presents a high probability of substantial physical harm to health, safety or general welfare of people before the danger can be abated under normal program procedures; and

D. "fund" means the abandoned mine reclamation fund."

SECTION 2. Section 69-25B-6 NMSA 1978 (being Laws 1980, Chapter 87, Section 6, as amended) is amended to read:

"69-25B-6. OBJECTIVES OF THE FUND--DUTIES OF THE

DIRECTOR.--

A. Pursuant to the state reclamation plan, expenditures from the fund shall be used by the director on eligible lands and water and shall reflect the priorities and objectives in the federal Surface Mining Control and Reclamation Act of 1977, as amended.

B. The legislature declares that voids and open and abandoned tunnels, shafts and entryways resulting from any previous mining operation constitute a hazard to the public health or safety and that surface impacts of any underground or surface mining operations may degrade the environment. Notwithstanding the provisions of Subsection A of this section, the director, with the prior approval of the governor and the United States secretary of the interior, may use expenditures from the fund to fill the voids, seal the abandoned tunnels, shafts and entryways and reclaim surface impacts of underground or surface mines that could endanger life and property, constitute a hazard to the public health and safety or degrade the environment. In those instances where mine waste piles are being reworked for conservation purposes, expenditures from the fund may be used to pay the incremental costs of disposing of the wastes from those operations by filling voids and sealing tunnels if the disposal of these wastes meets the purposes of this subsection."

SECTION 3. Section 69-25B-8 NMSA 1978 (being Laws 1980, Chapter 87, Section 8, as amended) is amended to read:

"69-25B-8. LIENS.--

A. Within six months after the completion of projects to restore, reclaim, abate, control or prevent adverse effects of past mining practices on privately owned land, the director shall itemize the money so expended and may file a statement thereof in the office of the county clerk of the county in which the land lies, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control or prevention of adverse effects of past mining practices if the money so expended results in a significant increase in property value. The statement shall constitute a lien upon the land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past mining practices. No lien shall be filed against the property of any person in accordance with this subsection who neither consented to nor participated in nor exercised control over the mining operation that necessitated the reclamation performed pursuant to the provisions of the Abandoned Mine Reclamation Act.

B. The landowner may proceed to petition the

district court for the county in which the land lies within sixty days of the filing of the lien to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past mining practices. The amount found by the court to be the increase in value of the premises shall constitute the amount of the lien and be recorded with the statement provided for in this section. Any party aggrieved by the decision of the district court may appeal to the supreme court.

C. The lien provided in this section shall be entered in the office of the county clerk of the county in which the land lies. The statement shall constitute a lien upon the land as of the date of the expenditure of the money and have priority as a lien second only to the lien of ad valorem taxes imposed upon the land." _____