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SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 3/29/05
BILL NO. HB606
executive action

Amendments to House Bill No. 606
3rd Reading Copy

Requested by Senator Aubyn Curtiss

For the Senate Natural Resources Committee

Prepared by Krista Lee Evans
March 18, 2005 (1:00pm)

1. Title, line 6.
Strike: "OPERATING PERMITS"
Insert: "APPROVAL FOR THE DESIGN, CONSTRUCTION, OPERATION, AND RECLAMATION OF AN IMPOUNDMENT"

2. Title, line 7.
Following: "QUALITY"
Insert: "AND TO POST A PERFORMANCE BOND"

3. Page 3, line 17 through line 18.
Strike: "an operating permit"
Insert: "approval for the design, construction, operation, and reclamation of an impoundment and post a performance bond"

4. Page 3, line 18.
Following: "IMPOUNDMENT."
Insert: "The small miner shall post a performance bond equal to the state's documented cost estimate of reclaiming the disturbed land. If the small miner has posted a bond for reclamation of that site with another government agency, the small miner is exempt from the requirement of this subsection (8)(a)."

5. Page 3.
Following: line 20
Insert: "(b) If a small miner under this subsection (8) fails to reclaim the operation, the small miner is liable to the department for all its reasonable costs of reclamation, including a reasonable charge for services performed by state personnel and for state materials and equipment used. If the small miner posts a surety bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for the remainder of the reasonable costs to the state of reclaiming the operation.

(c) If a small miner under this subsection (8) fails to commence reclamation of the operation within 6 months after

cessation of mining or within an extended period allowed by the department for good cause shown or if the small miner fails to diligently complete reclamation, the department shall notify the small miner by certified mail that it intends to reclaim the operation unless the small miner commences reclamation within 30 days and diligently completes the reclamation. The notice must be mailed to the address stated on the small miner exclusion statement or, if the small miner has notified the department of a different address by letter or in the annual certification form, to the most recent address given to the department. If the small miner fails to commence reclamation with 30 days or to diligently complete reclamation, the department may revoke the small miner exclusion statement, forfeit any bond that has been posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may also collect additional reclamation costs, as set forth in subsection (8)(d), before or after it incurs those costs.

(d) To collect additional reclamation costs, the department shall notify the small miner by certified mail, at the address determined under subsection (8)(c), of the additional reasonable reclamation costs and request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30 days, the department may bring an action in district court for payment of the estimated future costs and, if the department has performed any reclamation, of its reasonable actual costs. The court shall order payment of costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is completed. Upon completion of reclamation, the court shall order payment of any additional costs that it considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual reasonable costs incurred by the department."

6. Page 3, line 21.
Strike: "(b)"
Insert: "(e)"

7. Page 3, line 23.
Following: "OBTAIN"
Strike: "AN OPERATING PERMIT"
Insert: "approval of the design, construction, operation, and reclamation of an impoundment and post a performance bond"

Following: ACT].

Insert: If the small miner has posted a bond for reclamation of that site with another government agency, the small miner is exempt from the requirements of this subsection (8)(e).

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