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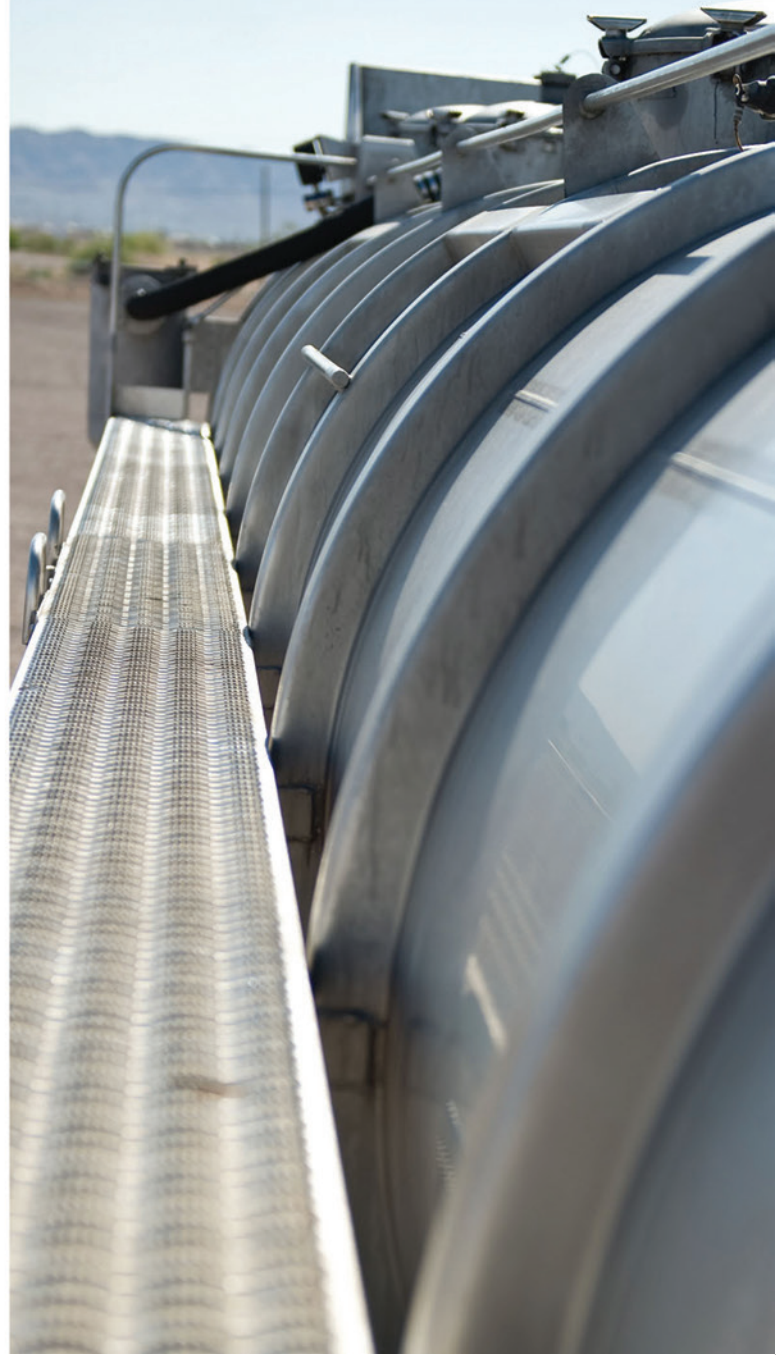




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## FROM THE EDITOR



When I view an image on my computer screen I can predict almost, but not quite, what it will look like when printed in the Journal. There are some good photos that I don't use, especially on the cover, because, although they look great on-screen, when printed I know from experience they will unfortunately lose their vivid colors and the bright

back-lit effect. I selected the cover photo for this issue, which should be reaching you just before or after Christmas, because on-screen it is a stunning night sky image from the Hubble telescope that seems to epitomize the Holiday Spirit and cheerful colors of the season. It is called, "Nebula in the Large Magellanic Cloud, NGC 2074". It is 170,000 light-years from Earth. I hope you will like it, and I hope it prints almost as well as it looks on-screen!

A lot of readers have recently updated your subscription and mailing information online -- thank you! And thank you to our advertisers, authors, columnists, and readers! If you have an article you would like to contribute in the upcoming year, please give me a call or email.

Sincerely,

Jim Thrush, M.S. Environmental Management  
Editor & Publisher

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The abstract should be one page or less and include a title, author and affiliation. Please keep in mind that speakers will be asked to register for the event (the day of their presentation at a minimum) which will include lunch, attendance at other talks and keynote presentations, vendor interaction, networking and other scheduled events. We plan to notify presenters of acceptance on or before January 15, 2012

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# SB 1598 HELPS BUSINESSES NAVIGATE REGULATORY MAZE

Is your business licensed by a local government in Arizona? If yes, you may benefit from a new law providing additional tools for regulated entities.

by Gregory Y. Harris  
and Alana C. Hake

**H**ave you ever been befuddled by a local ordinance, unsure what steps are required to bring your business into compliance? Have you ever applied for a local license, permit, or other approval and experienced delays that did not make sense? Has your business been subject to municipal or county inspections that you felt were conducted unfairly? Take note, change is coming. A new law passed during the 2011 legislative session creates a “regulatory bill of rights” applicable to municipalities, counties, and county flood control districts (referred to collectively as “local

governments”). SB 1598 will provide Arizona business regulated by local governments with additional tools to navigate the regulatory maze.

## ENACTMENT OF SB 1598

### ECHOES OF STATE AGENCY REGULATORY REFORM

SB 1598’s regulatory bill of rights is modeled after the bill of rights governing state agencies, codified in Title 41 of the Arizona Revised Statutes. In the late 1990s, the Arizona Legislature embarked upon a series of changes to the operation of state government in relation to the regulated community. While many saw these changes as revolutionary and sweeping, others viewed them merely as needed improvements to promote transparency and provide greater certainty to individuals and businesses navigating the regulatory maze. These measures now seem a matter of course on the state level, but when enacted, these new laws meant that applicants for a state license or other approval for the first time had a right to receive notice of the information required to process an application, expected processing times, and the procedure to appeal the denial of an application.

SB 1598 applies these and other fundamental aspects of the state agency regulatory reform laws to local governments. As a result, regulated Arizona businesses will have additional tools to navigate the varied local regulatory processes they face.

### DRAFTING THE BILL

The aggregates industry, including the Arizona Rock Products Association, began the effort for regulatory reform at the local level. Difficulties experienced by mining companies in obtaining timely review of zoning and flood control applications served as the impetus for the measure. The regulatory reform effort soon spread throughout the larger business community, with the Arizona Chamber of Commerce and Industry also becoming involved and broadening the scope of the bill. The bill’s proponents recognized the need to include local government representatives early in the process to identify and resolve concerns cooperatively before bringing the bill to the floor.

The extensive negotiations behind SB 1598 resulted in a bill that both industry and local government could support. Initially, local governments expressed concern that SB 1598 was a “copy and paste” job from state agency statutes, and as such, did not account for various differences between how and what state and local governments regulate. For example, a municipal building code inspection requested by a developer during the construction process differs considerably from an air quality inspection by the Arizona Department of Environmental Quality, rendering several of the required inspection protocols unnecessary. Similarly, the public health concerns associated with restaurant inspections prompted the drafters to ensure that local governments could still conduct unannounced inspections under certain circumstances. SB 1598 includes exceptions to account for these and other similar nuances arising in the context of local government licensing and inspection processes.

The licensing time frames provision of SB 1598 also presented potential controversy. Some felt that licensing time frames could heighten the tension between local governments and regulated entities, leading to more frequent denials as the default position taken by regulators when concerns could not be timely resolved. By allowing local governments to set their own time frames and providing well over a year to do so, the drafters of SB 1598 sought to minimize these concerns. Additionally, the bill allows the parties to agree to toll or waive a time frame that is not practicable in a particular instance, up to a maximum extension of 25



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percent of the applicable time period. With this built-in flexibility, licensing time frames should increase certainty for regulated entities while still allowing local governments sufficient time to adequately review license applications.

In the Legislature, SB 1598 quickly gained momentum, while other bills seeking to more stringently regulate local government failed. For example, SB 1286 (held in the House of Representatives) would have required local governments to take action on all permit applications within 60 days or the application would be deemed approved. HB 2501 (held in the Senate) would have held that all rules, ordinances, and laws were to be construed in favor of a license applicant and against the local government. SB 1598 strikes a balance that avoids these drastic impacts on local government while still promoting business development.

## How SB 1598 Will Impact Arizona Businesses

SB 1598's regulatory bill of rights will give businesses regulated by local government agencies additional tools to timely obtain the approvals they need. For companies in the aggregates industry, SB 1598 also includes increased protections designed to alleviate land use conflicts that sometimes arise.

### REGULATORY BILL OF RIGHTS

Business regulated by local governments in Arizona will now be protected by a "regulatory bill of rights" similar to that already applicable to state agencies under the Administrative Procedure Act ("APA"), found in Title 41. Major provisions of SB 1598's regulatory bill of rights track those of its Title 41 counterpart, including: (1) licensing time frames; (2) additional licensing protections; and (3) inspection protocols. Businesses regulated by state agencies will be familiar with these concepts.

**Licensing time frames.** When fully implemented, local governments will be required to act on license applications within a predetermined time frame. As under the state APA, each licensing time frame must be divided into two consecutive segments: an "administrative review" segment to determine whether the application is complete and a "substantive review" segment to determine whether to approve the license. SB 1598 allows local governments to establish the time frames for each type of license. In this way, SB 1598 sidesteps concerns over local autonomy and also serves to spur local governments to compete for business development by offering shorter time frames. Licensing time frames must be in place by December 30, 2012.

**Additional licensing protections.** Local governments must inform an applicant upfront—at the time an application is obtained—of all steps that must be taken to receive a license. Further, if a local government denies a license application, it must issue a written or electronic notice that includes the specific legal authority on which the denial is based and notice of the right to appeal. This prevents local governments from adding requirements during the application process or denying an application for undisclosed or vague reasons or grounds not stated in the law.

SB 1598 also provides that an applicant has the right to have a licensing decision not based on conditions or requirements that are not "specifically authorized" by law. The bill further states that a general grant of authority is not a basis for imposing a licensing requirement or condition

that is not "specifically authorized." While the exact scope of this language is not clear, it could be used to challenge local regulations that are perceived as too broad or vague.

**Inspection protocols.** The inspection protocols that SB 1598 requires include the following: 1) allowing a regulated business to have an on-site representative accompany an inspector; (2) providing the regulated business with copies of any documents removed from the premises and splits or duplicates of any samples taken; (3) allowing the regulated business an opportunity to correct identified deficiencies before initiating enforcement proceedings; and (4) providing notice of the regulated entity's rights and any applicable inspection fees. These protocols apply to inspections necessary for issuance of a license or to assess compliance with licensing requirements.

**Other.** SB 1598 includes additional protections designed to increase the accountability and transparency of local government. It allows a person who prevails against a local government by adjudication on the merits to recover attorney's fees and other expenses. SB 1598 also requires a local government to publish at least annually a directory summarizing its ordinances, codes, and substantive policy statements, and post the directory on its website.

Additionally, SB 1598 creates a procedure to allow a person to request and obtain clarification of a local government's interpretation or application of any statute, rule, ordinance, or substantive policy statement that affects the license application process. This procedure is an innovation not present in Title 41. The local government must respond within thirty days and provide the person who made the request an opportunity to discuss the response.

*Continued on next page*



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## SB 1598 HELPS BUSINESSES

CONTINUED FROM PG 7

### ENFORCING RIGHTS GRANTED BY SB 1598

A person who believes that an ordinance, code, or substantive policy statement violates the regulatory bill of rights may file a complaint with the governing body of the city, county, or county flood control district. If a complaint is filed, SB 1598 provides that the governing body may hold hearings on these allegations and recommend actions to correct the problem. This process differs from that under Title 41, which generally allows an aggrieved person to file a complaint and receive a hearing—not before the agency but before an independent Administrative Law Judge with the Office of Administrative Hearings. Because a local governing body is presumably the same entity that drafted the disputed ordinance, code or substantive policy statement, concerns remain about how effective it will be to raise complaints about noncompliance in that venue. Thus, future questions may arise regarding how a person may effectively enforce the rights granted by SB 1598.

### AGGREGATE PROTECTIONS

Aggregates (particulate materials such as sand, gravel, and crushed stone, used to make concrete) are typically mined from riverbeds and riverbanks, including from the Salt, Gila, and Agua Fria Rivers in Maricopa County. Aggregate mining, which is regulated by county flood control districts, sometimes leads to conflicts with nearby residents affected by noise, dust, traffic, or other impacts associated with mining activities. To address these problems, SB 1598 requires local governments to include in their general or long-term planning a land use element that identifies known sources of aggregates and establishes policies to preserve these resources and avoid incompatible land uses (e.g., distance and buffering policies). Thus, future conflicts between mining companies and local communities should be reduced.

### CONCLUSION

SB 1598 should benefit Arizona businesses regulated by local government by making it easier and faster to obtain necessary licenses and other approvals. Licensing time frames will prevent applications from being lost in a regulatory abyss and enable businesses to anticipate when needed approvals will be obtained. Required inspection protocols should help to eliminate inconsistencies that often arise due to the idiosyncrasies of different inspectors. For the aggregates industry, the additional planning requirements will help to eliminate future land use conflicts. Areas of uncertainty may arise, however, as local governments begin to implement the statute. For example, as mentioned above, SB 1598 does not provide a uniform hearing process to facilitate appeals from licensing decisions comparable to the process of appealing to the Office of Administrative Hearings under Title 41. Additionally, questions could be raised as to the meaning of the provision that licensing conditions or requirements be "specifically authorized." A bill to revise in minor respects various provisions enacted by SB 1598 is anticipated to be introduced in the 2012 legislative session. Despite questions that remain, the additional tools and protections that SB 1598 provides will help Arizona businesses cut through the regulatory morass and achieve their goals.

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## SUSTAINABILITY AND SUSTAINABLE DEVELOPMENT

Nicholas R. Hild, PhD.

### PROPOSED RECYCLING LEGISLATION UNNECESSARY, UNENFORCEABLE

*“Civilization is the limitless multiplication of unnecessary necessities.”*

—Mark Twain (1835-1910)

Applying Mark Twain’s wit to politicians and the laws they gender up, puts this column’s subject into context—to wit: Tucson Rep. Steve Farley’s electronics recycling legislation he will be trying to push through for the fourth straight year that, while well intentioned, is truly bad environmental law and, yes, “unnecessary” too—unnecessary because the targeted waste is already being managed under both RCRA and the Pollution Prevention Act of 1990.

First introduced in 2009, the 2011 version of “large electronics recycling program (HB2425)” was dead on arrival, just as the previous bills were but *three strikes and your out* seems not to enter Rep. Farley’s mind; he’s vowed to introduce it again in the 2012 session and this time, based on an early publicity article in the AZ Republic (Nov 23, 2011), he’s busily rallying support from anyone who will listen. Here’s the jist of it:

[the] bill will require... ‘all electronics manufacturers of covered electronics devices’—both terms, ‘manufacturers’ and ‘covered electronics devices’ are poorly defined in the bill—so poorly that enforcement would be impossible... ‘who intend to sell (such ‘covered’ devices) in Arizona to submit recycling plans’ (for the myriad of covered devices each ‘manufacturer’ sells). Such plan(s) must be submitted to ADEQ for approval or rejection based on ADEQ’s understanding of how efficient (also not defined in the bill—do the landfill police count cell phones and iPods in garbage trucks? Heavy metals in the leachate? What? How?—yes, how efficient, those plans are aimed at keeping those ‘covered electronics devices’ out of landfills(!)

When you look at the 2011 bill’s language, it is clear that Rep. Farley intends to force the distributors (he calls them, ‘manufacturers’ and that’s a BIG problem!) of cell phones, computers, and similar ‘covered electronic devices’ that have submicron-levels of heavy metals in their internal circuitry, to have an ADEQ-approved plan on file that ensures that those ‘covered devices’ never find their way into garbage that goes to the landfill...but, the definitions in this legislation are so convoluted, the one thing that is assured is that NO ONE will clearly be defined as a ‘manufacturer’ of such ‘covered devices.’

The worst part of this legislation is that it doesn’t recognize that the actual ‘manufacturer’ of the internal heavy-metals-laden circuitry—the actual intended target for the legislation (we think)—are mostly companies that don’t distribute their ‘covered electronic devices’ to consumers in the first place.

“Manufacturers” are actually the big semiconductor manufacturing companies with large assembly plants, 80% of which are in other countries. These ‘manufacturers’ are the companies that put those lead, cadmium, and mercury semiconductors into their ‘devices’ and sell them to large assembly and distribution companies, who then sell those devices (computers, iPads, iPods, cell phones, DVDs, Blu rays, TVs; etc., etc...) to consumers.

Thus, when Dell, Verizon, Hitachi, Mitsubishi, Erikson, and all the “distributors of these ‘covered devices’ look at this legislation, they will (rightfully) be able to say: “...we don’t manufacture electronic devices; we just package and distribute them to retail outlets and consumers—the ‘manufacturers’ that “make” the heavy-metals-laden internal parts are mostly in other countries so talk to them.”

They could also rightfully say, “...if we were required to have a recycling plan, we would be unfairly keeping our customers from donating those ‘covered devices’ to schools and other charitable organizations by limiting the options for users to choose where they want those devices to go, an infringement on free commerce.”

More importantly, what is to be gained by passing such legislation, even if the correct (and enforceable), language could somehow be written? Rep. Farley says that 25 states have already passed laws prohibiting the disposal of certain types of electronics in landfills. However, when I asked Rep. Amanda Reeve who heads up the House Environment Committee about that, she said she’d conducted research in most of those states and found that none had successfully been enforcing that legislation because of the complexities in defining exactly which companies—the ‘distributors, assemblers, circuit-board and microprocessor manufacturers—some states have said that even the Big Box stores like Walmart and Target and Best Buy could be ‘manufacturers’ under the legislation’s confusing definitions—should be required to submit recycling plans to the state.

But, forget the problems of interpreting and enforcing this proposed, new legislation. Focus on what is already being done to minimize this kind of waste going into landfills and it is clear that this legislation is unnecessary in the first place. Why? Because there is already a Pollution Prevention Unit in ADEQ which, among other things, is chartered to “prevent pollution” (what a concept, eh?) by those same ‘manufacturers’ already—and they already have a priority on keeping (not only) ‘covered electronic devices’ out of the environment, but a whole lot of other ‘hazardous’ consumer products as well. And, they do it by working with municipalities to sponsor recycling days for electronics and helping industry find places where cell phones and electronics of all kinds of ‘solid waste’ can be donated and reused.

If our legislator’s did their homework at ADEQ before jumping into the regulatory mode, they would find that both the Resource Conservation and Recovery Act of 1980 and the P2 program (1990) have required ‘manufacturers’ of hazardous materials and ‘generators’ of hazardous wastes (i.e. including those heavy metals in electronic devices that is targeted in this legislation) to have waste minimization plans already aimed at keeping those hazardous materials out of landfills. And, they’ve been doing just that for more than 25 years! At most, ADEQ only needs to be asked to put renewed efforts on the small electronics like iPods, cell phones, and the myriad of small electronic devices that we can not live without in our daily pursuit of life’s most essential needs.

The public servants at ADEQ would be among the first to welcome your inquiry because the last thing they want is to have more ‘unenforceable’ regulations to manage with fewer regulators available to do the job under the state’s austerity budgeting program. And, just knowing that legislators really care about the good job they are doing would do wonders for morale while ensuring that you get renewed effort at reducing the flow of those ‘covered electronic devices’ into landfills.

Taxpayers, cell phone and computer retailers, and even ‘manufacturers of covered devices’ will praise your wisdom when you come up for reelection and, most of all, you will have the undying gratitude of our most affected population: our children’s, children’s, children.

Nicholas R. Hild, PhD., Professor and Associate Chair, Department of Applied Sciences and Mathematics, Environmental Technology Management program, Arizona State University College of Technology and Innovation, has extensive experience in Environmental Management in the southwestern U.S. Dr. Hild can be reached at 480-727-1309 and by email at DrNick@asu.edu.



# ASSOCIATIONS PAGES

The Journal of Environmental Management Arizona invites environmental, health and/or safety organizations in Arizona to contribute news articles about their associations. Contact the editor at 480-422-4430 x42.



WWW.AZHYDROSOC.ORG

AHS would like to wish all our members and colleagues a very happy holiday season and a wonderful New Year. Please join us in January as we get set for another great year of hydro dinner meetings, workshops and the annual 2012 Symposium! And the symposium is already shaping up nicely! Our theme this year is: CONFLUENCES - 25 YEARS BRINGING WATER, PEOPLE, AND IDEAS TOGETHER.

Please contact Ted Lehman at ted@jefuller.com if you would like to help with the planning or may be interested in sponsoring. Also a quick reminder for those members who did not attend this year's symposium that now is the time to renew your membership!

Christie O'Day  
Executive  
Director



WWW.SAEMS.ORG

In January 2012, SAEMS will mark its 25<sup>th</sup> anniversary. Several charter members regularly attend the lunch meeting. Looking at past accomplishments reveals the steady commitment of our membership to our vision and mission of promoting focus on the environment of our community.

Former Tucson Mayor Robert Walkup was the speaker at the December meeting. He recounted significant accomplishments beneficial to the Tucson environment during his three terms in office and spoke of the challenges ahead for the new administration.

Congratulations to Lon Huber, a 2010-2011 SAEMS Scholarship winner, who was selected as one of the Arizona Daily Star's "40 Under 40". The "40 Under 40" award program recognizes young leaders in the Old Pueblo based on professional accomplishments, leadership qualities and community impact. The Education / Scholarship Committee and the executive board set the budget for the 2012 -2012 SAEMS Scholarship Awards program. SAEMS has awarded over \$102K in scholarships to University of Arizona students in the past decade.

Several UA students joined the regular crew for the Adopt-A-Highway clean up December 10<sup>th</sup> and brunch at the Triple T afterwards. SAEMS will promote the participation of UA students in our future events and SAEMS-supported events such as the Tucson Earth Day Festival.

Plans are being made for the 2012 SAEMS RCRA Seminar. The menu is set and the contract is signed with the Manning House. Save the date on your calendars: Thursday May 10, 2012.

Ken Asch  
President



WWW.AWMA-GCS.COM

The Air and Waste Management Association—Grand Canyon Section toured Veolia's electronics recycling plant in West Phoenix on December 2<sup>nd</sup>. Remember to do your part for the environment this holiday season and recycle you old electronics and batteries when replacing them with new ones!

A&WMA celebrated the season with AZAEP and AHS at a fabulous holiday mixer at Terroir Wine Pub in Scottsdale. Upcoming events include our annual EUEC meeting at the end of January and February's always thought-provoking joint meeting and mixer with the Environmental and Natural Resources Law Section of the State Bar of Arizona. Elections for the Board and the A&WMA-GCS annual meeting are tentatively scheduled for January 12, 2012.

For activity updates and additional information, see <http://awma-gcs.com/GCSevents.aspx>.

Jamie Wilson  
Chair



WWW.VALLEYFORWARD.ORG

## WHAT IS THE FUTURE OF ARIZONA?

Arizona has a spotty quality of life report card, according to a newly released Morrison Institute report titled *Arizona Directions*, which was unveiled at its State Conference last month. More than 500 business and civic leaders turned out to hear an evaluation of our strengths and weaknesses and of the policy options that will enable Arizona to prosper.

The good news is: we're business friendly and have a favorable tax package, incidence of melanoma is down, water conservation is up and fewer people are smoking.

The challenges are: job growth is slow, few of our students are college-ready in math, child poverty is high, our infrastructure is aging and we have a weak tradable sector.

In regards to environmental aspects of the report, two of Arizona's most fundamental challenges – water and transportation – were spotlighted. Although Phoenix residents are doing better about conserving water there are still critical issues with regard to population growth and long-term availability of this precious natural resource. On the transportation side, the Valley's new metro transit system has been popular but is expensive to maintain and expand, and isn't that effective overall with the majority of commuters still driving cars.

There's no shortage of work to do in these areas, not to mention job creation, education and health, other areas the report covers. All Arizonans need to get involved in helping to develop solutions to these critical issues. It will take collaboration and commitment on diverse interests working together to ensure the long term economic and environmental sustainability of the Grand Canyon State. That's the only way we can move Arizona forward.

Diane Brossart  
President



WWW.AZCHAMBER.COM

The Arizona Chamber and Manufacturer's Council will hold its 2012 Legislative Forecast Luncheon on Friday, January 6, 2012 at the Hyatt Regency Phoenix located at 122 N. 2nd Street, Phoenix, 85004. Featured speakers include Governor, Jan Brewer, Senate President-elect, Steve Pierce, Speaker of the House, Andy Tobin, Senate Minority Leader, David Schapira and House Minority Leader, Chad Campbell. Go the Arizona Chamber's web page at [www.azchamber.com](http://www.azchamber.com) for registration information.

Jeff Homer  
Chairman  
Environment  
Committee



WWW.EIA-AZ.ORG

The Environmental Information Association (EIA) is excited to announce the grand opening of our new and improved website. The site is much easier to maneuver and provides the latest information regarding membership (individual and corporate), upcoming seminars (free to attendees), resources, events, and access information to our valued members.

As we near the end of this calendar year our officer elections will take place and the newly inducted officers will resume and/or fill their positions into 2012. The EIA will host the Regional Environmental Conference/Seminar in Phoenix October 4-5, 2012. Please visit our website for additional information regarding this seminar and others planned for 2012.

Please visit our web site at <http://www.eia-az.org> or call 602-437-3737 ext. 123 for information on all upcoming events sponsored by EIA-AZ and for membership and sponsor opportunities.

Vicky Aviles  
Past President



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WWW.AZALLIANCE.ORG

The annual election of officers of both the Alliance Board and the Advisory Council was held at the November Alliance meeting, with a unanimous vote to reelect all 2011 office holders to new terms in 2012. Alliance Chair: Dan Casiraro; Vice Chair, Cameron Flower; Treasurer: Matt Conway, and President: Jim Thrush. Advisory Council Co-Chairs are: Beverly



Westgaard, and Kale Walch.

The Alliance hosted the "Business Leadership and Sustainability Legislative Forum Luncheon" on November 29th, 2011. (See photos and an article on page 13). A follow-up to the well-attended January 2011 Air Quality Luncheon is being planned for a date early next year. Look for more details in upcoming articles!

Visit our website for information on the Alliance, or call our office at 480-422-7392.

Dan Casiraro  
Chair



WWW.EPAZ.ORG

EPAZ is happy to announce and welcome the new **Board of Directors for 2011-2013**. President: Mike Ford, Polsinelli Shughart; Vice President: Skip Harden, Xenco Laboratories; Treasurer: Laura Adams, Republic Services; Secretary: Karika Bridgers, ASU; Chairman of the Board: Mannie Carpenter, JBR Environmental.

**EPAZ Membership Renewal:** Membership renewals were due November 1, 2011. If you haven't done so yet, please go online and renew your membership or mail in your renewal fees. [www.epaz.org](http://www.epaz.org)

**Community Service:** At the annual business meeting it was decided that EPAZ would become a supporter of the non-profit, Abandoned Mine Safety Organization. This includes but is not limited too; providing speakers for outreach purposes, volunteers for mine abandoning projects and financial assistance to further the mission of the organization. Please contact us if you'd like to get involved!

**Upcoming Events:** January 12<sup>th</sup> Luncheon "Tier II Update", Presented by Paul Culberson, AZSERC. January 26<sup>th</sup> Mixer at Thirsty Lion Pub & Grill (Tempe Marketplace).

EPAZ normally holds monthly luncheon meetings on the 2<sup>nd</sup> Thursday of the month from 11:30 am to 1:00 pm at the SRP PERA Club. For details and reservations, please go to our website. EPAZ also gathers on the last Thursday of the month for a casual cocktail mixer at various locations throughout the valley. Visit our website to find the location of our next mixer or for more information.

Mike Ford  
President



## Jason Bolen

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AZAEP's Fourth Annual Fundraising Golf Tournament held in November was a driving success! We raised approximately \$5,000 which will be used for our

student scholarship awards in 2012. Thanks to all of our sponsors for their support, to Joe Pinto, the Golf Committee, and the volunteers for putting it all together.

2012 will be another exciting year for our chapter. We have plans to substitute several of our regular meeting formats with at least one field trip, and we will recruit a panel of speakers to discuss current and relevant topics at one of the monthly dinner meetings.

AZAEP's February 2012 meeting is scheduled to be held in Tucson, where Jeremy Lite of Quarles & Brady will discuss recent NEPA legal updates. The March meeting will be held at our usual spot, Grimaldi's in Old Town Scottsdale, and will feature Kris Gade of AECOM presenting on Plant Migration Along Transportation Corridors. Other upcoming events, job postings, and relevant articles and links can be found on our website. We hope to see you at an upcoming meeting!

Michael  
Zorba  
President



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*Thank you for subscribing  
to the Journal!*



# ARIZONA ENVIRONMENTAL STRATEGIC ALLIANCE HOSTS BUSINESS LEADERSHIP AND SUSTAINABILITY LEGISLATIVE FORUM LUNCHEON



On November 29th, 2011, the Arizona Environmental Strategic Alliance hosted a Business Leadership and Sustainability Legislative Forum Luncheon at the University Club of Phoenix for members of the Arizona State Legislature, representatives from

regulatory agencies including ADEQ, Maricopa County Air Quality Department, and the Pinal County Air Quality Department, and Alliance Members representing a number of Arizona organizations including Arlington Valley Energy LLC, APS, PING, SRP, and Salem Boy's Auto, and Alliance Advisory Councilors.

The forum discussion focus was on Business Leadership and Sustainability in Arizona. Dan Casiraro, Alliance Chair, welcomed the attendees and discussed the goals of the Alliance and its efforts towards promoting environmental leadership. Ed Fox, Vice President and Chief Sustainability Officer, APS, presented a high-level overview of environmental sustainability with his presentation, "Sustainability - What does it mean to Arizona?"; Matt Conway, PING, presented sustainability challenges and achievements for PING, a larger business; and Mark Salem, Salem Boy's Auto, presented sustainability challenges and achievements for Salem Boy's Auto, a smaller business.

Following the presentations, Rep Amanda Reeve, Chair of the Environment Committee, and our other guests from the Arizona State Legislature including Rep. Heather Carter, Rep. Brenda



Barton, Rep. Kate Brophy McGee, and Rep. Frank Pratt, discussed sustainability issues from the legislative point of view and commented on points in the earlier presentations.

The Alliance maintains a website at [www.azalliance.org](http://www.azalliance.org) and can be reached at 480-422-7392.



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# NEWS BRIEFS

## FORMER LUPTON, AZ, TRUCKSTOP OWNERS TO PAY \$80,000 PENALTY FOR VIOLATING HAZ WASTE LAWS

❖ The U.S. Environmental Protection Agency recently announced that it fined the former owners and operators of Speedy's Truck Stop \$80,000 for violating federal hazardous waste and community right-to-know laws.

The violations at the Lupton, Ariz. facility were found following a series of inspections by Navajo Nation EPA, the Arizona Department of Environmental Quality and the U.S. EPA in 2004. Inspectors uncovered violations of federal standards governing the handling and storage of hazardous waste. Among the violations were mislabeled, unlabeled hazardous waste, including benzene-contaminated wastewater, inadequate record keeping of a hazardous waste storage facility, failure to obtain a permit, mismanagement of used oil, failure to properly train employees and failure to comply with community right-to-know laws. The defendants in the complaint were Mark Nicholson, Brian Nicholson, the Dale A. Nicholson Trust, the Nicholson Children Trust, Speedy's

Convenience Inc., and Native American Energy LLC.

In 2004, EPA emergency responders were on site to oversee the removal of approximately 1,900 cubic yards of petroleum contaminated soil along with the removal of approximately 23,000 gallons of benzene-contaminated wastewater.

Under the U.S. EPA's Resource Conservation and Recovery Act program, hazardous substances must be stored, handled and disposed of using measures that safeguard public health and the environment.

## PARKER PLATE LLC TO PAY \$51,000 PENALTY TO RESOLVE HAZARDOUS WASTE VIOLATIONS AS PART OF ADEQ'S "PLATING INITIATIVE"

❖ The Arizona Department of Environmental Quality and Arizona Attorney General's Office announced recently that Parker Plate, LLC will pay a \$51,000 penalty as part of a consent judgment for hazardous waste violations at its former La Paz County plating facility. The settlement with Parker Plate, which manufactured custom license

plate frames, brings to 13 the number of electroplating facilities in Arizona brought into compliance with hazardous waste rules under ADEQ's "Plating Initiative." ADEQ launched the initiative in 2008 after facility inspections beginning in 2004 determined that many facilities were not in compliance with the Arizona Hazardous Waste Management Act, which regulates hazardous waste in the state.

The company was cited for a number of violations following repeated ADEQ inspections from 2006 through 2009. The violations included treatment, storage and disposal of hazardous waste without a permit; failing to properly mark containers and tanks; improperly storing and characterizing hazardous waste; failure to comply with emergency preparedness requirements; not having a contingency plan; and failure to have personnel training requirements.

A total of 860,000 pounds of soil was removed during environmental remediation because of chromium contamination at the site.

"Their inappropriate management of hazardous waste contaminated an area with close proximity to homes and other businesses," said ADEQ Director Henry Darwin.

"Any company handling hazardous waste needs to rigorously comply with state standards to protect the health of our citizens and our environment," Attorney General Tom Horne said. The consent judgment is subject to court approval.

## ARIZONA WITHDRAWS FROM WESTERN CLIMATE INITIATIVE, JOINS REGIONAL PLAN FAVORING BROADER ENERGY, JOBS PUSH

❖ ADEQ Director Henry Darwin announced recently that Arizona has formally withdrawn from the emissions trading program known as the Western Climate Initiative and joined a new initiative called North America 2050, which will spur energy innovation and create economic opportunities while reducing carbon emissions.

"Arizona believes there are more effective, responsible



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## INDUSTRIAL SERVICES | WASTE MANAGEMENT



# MESOTHELIOMA.....A BIG WORD FOR A MENACING DISEASE!

By Vicky L. Aviles  
Principal/Western Technologies

The word Meso is a prefix meaning middle or between. In the human anatomy there is a membrane that covers the lungs (inner pleura), and the outer lining of this membrane (outer pleura) attaches to the chest wall. The thin space between these layers is the pleural cavity. Approximately 75% of all diagnosed Mesothelioma diseases is Pleural Mesothelioma.

Peritoneal Mesothelioma which affects the stomach and abdomen is the second most common type of Mesothelioma and accounts for less than 20% of all Mesothelioma cases. The rarest form is Pericardial Mesothelioma which affects the heart. The only known cause of Mesothelioma is exposure to asbestos.

Although the use of asbestos in building materials has significantly lessened in the United States, the mineral is still imported, numerous abatement projects occur daily, and a substantial amount of asbestos remains in buildings. The Center for Disease Control (CDC) estimated that currently 1.3 million construction and general industry workers potentially are being exposed to asbestos. These numbers are staggering but perhaps the greatest tragedy is the number of potential exposures that occur in non-construction and industrial settings and by individuals that have never heard of asbestos or made aware of the health effects associated with exposure. Not to mention

the natural and unnatural catastrophic events that have occurred in the United States that has potentially exposed literally thousands to asbestos fiber.

The symptoms are easily misdiagnosed and physicians are not forthcoming with inquiry regarding potential for asbestos exposure with their patients. Therefore, Mesothelioma is typically not discovered until it is too late and the disease has progressed to other parts of the body. The only treatment currently available is surgery, chemotherapy, or a combination of the two. These treatments are not cures but are used to prolong life. New treatment options have been announced this year following filings for Orphan Drug Designation (ODD). Since Mesothelioma affects between 2,000 and 3,000 Americans each year and there is no known cure, diseases of such limited populations fit within the ODD classification.

*This article is dedicated to my dear friend Janet Tjan who lost her battle with Peritoneal Mesothelioma in September this year. If greater awareness of this terrible disease can be made to others by us actively in the industry then perhaps my dear friend has accomplished more through her suffering than just being a name on a list of Malignant Mesothelioma Mortalities.*



**Janet Tjan**  
1946 - 2011

## NEWS BRIEFS

CONTINUED FROM PREVIOUS PAGE

ways to realize the environmental and health benefits the WCI program seeks to achieve while avoiding the economic costs to industries that are subject to cap and trade," Darwin said, adding that those costs are ultimately borne by the customers and ratepayers of the affected industries.

Instead, Darwin said Arizona has taken the lead with 13 other states and four Canadian provinces in the North America 2050 collaborative, which will spur economic growth while protecting the environment.

Among the collaboration topics are exploring carbon capture and sequestration and the use of sustainably harvested biomass fuels to displace high carbon fuels, developing benchmark approaches to encourage industrial energy efficiency, and developing high quality offsets that may be used in emissions trading programs. Each of the states and provinces will participate in those areas that align with their priorities and interests.

"This new collaboration gives states and provinces the ability to lead and influence the evolving climate and energy policies in our respective countries. For Arizona, the emphasis is on finding ways to create jobs and stimulate the state economy through technological advancements in the clean energy sector," Darwin said.

The Western Climate Initiative was composed of seven Western states and four Canadian provinces in a regional effort to reduce global carbon pollution. Governor Brewer signaled in a February 2010 executive order that Arizona would not participate in the trading program that seeks to cap carbon emissions while enabling businesses covered by the cap to trade allowances, or credits, in lieu of meeting their reduction goals.

On November 10, California and four provinces announced the formation of a non-profit organization to administer the WCI cap-and-trade program and service its technical needs. Arizona and other states formerly identified with WCI decided to clarify that they are no longer associated with the organization.

Participating jurisdictions in North America 2050 are free to choose which policies and programs they want to be involved with based on their own priorities and vision, Darwin said. He emphasized that while some states and provinces may continue to pursue cap and trade, Arizona will not be one of them.

"I think we all share a common commitment to create a cleaner, healthier environment. We may have different ideas about how to reach the goal, but we can learn by sharing success stories and by working together on policies we can agree on," Darwin said.





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