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7
8 **IN THE SUPERIOR COURT OF YAVAPAI COUNTY, STATE OF ARIZONA**
9

Jennifer Richards;

Plaintiff,

v. **SCOTT ELLIS, in his official capacity as
the City of Cottonwood Community
Development Director,
LINDSAY MASTEN, Chairwoman of the
Planning and Zoning Commission,
RANDY GARRISON, Vice Chairman of the
Planning and Zoning Commission,
JAMES GLASCOTT, Commissioner,
GEORGE GEHLERT, Commissioner,
BOB ROTHROCK, Commissioner,
DANIEL COMELLA, Commissioner,
PLANNING AND ZONING COMMISSION
OF THE CITY OF COTTONWOOD,**

Respondents.

Case No. _____

**PETITION FOR WRIT OF MANDAMUS
AND VERIFIED COMPLAINT**

11 **INTRODUCTION**

12 Petitioner, Jennifer Richards, hereby submits this verified complaint and petitions this Honorable
13 Court for a Writ of Mandamus pursuant to A.R.S. § 12-2021, to compel the Respondents to comply with
14 their legal duty under **Section 302(G) of the City of Cottonwood Zoning Ordinance** to hold a public
15 hearing to determine whether the **Conditional Use Permit (CUP) PCU 08-002**, issued to **Minerals**
16 **Research, Inc. (MRI)**, should be revoked due to substantial and ongoing violations. All matters outlined
17 on the 17 pages of this petition are based upon information and belief of the Petitioner.

18 **1. JURISDICTION AND VENUE**

19 This Court has jurisdiction over this matter pursuant to A.R.S. § 12-2021 et seq.
20 Venue is proper in Yavapai County as Respondents are public officials acting within their jurisdiction
21 in Cottonwood, Arizona.

22 **3. PARTIES**

23 **Petitioner:** Jennifer Richards is a local business owner, commercial property owner, and affected
24 party who has submitted multiple formal complaints regarding material violations of MRI's CUP.

25 **Respondents:** Scott Ellis, the Planning and Zoning (P&Z) Commission and its members are
26 responsible for enforcing section 302 of the code and ensuring compliance with the CUP conditions.

27 **4. OFFICIAL DUTIES**

28 **ARTICLE I, Section 103 titled "Interpretation and Application" of the City Zoning**
29 **Ordinance**, states "*the provisions of this Ordinance shall be held to be **minimum requirements** for*
30 *the promotion of a comprehensive plan and for the promotion of the public health, safety and general*
31 *welfare.*"

32 **ARTICLE 1, Section 104(B) titled “Powers and Duties of the City Zoning Ordinance” of**
33 **the City Zoning Ordinance** states: *“It shall be the duty of the Commission... to hold public hearings*
34 *where necessary”*

35 **ARTICLE 3, Section 302(D)(4) titled “COMMISSION ACTION AND FINDINGS” of the**
36 **City Zoning Ordinance** states: *“A Conditional Use Permit may be subject to review and possible*
37 *revocation... where the required findings for revocation, as described in this Section, are*
38 *demonstrated.”*

39 **ARTICLE 3, Section 302(G)(4) titled “REVOCATION” of the City Zoning Ordinance**
40 states: *“The Planning and Zoning Commission may revoke the CUP if it makes **any** of the following*
41 *findings:”*

42 *“a. ...the use has been conducted in violation of the provisions of this Ordinance;*

43 *b. That approval was obtained by means of... misrepresentation of a material fact;*

44 *e. That the use to which the permit applies has been conducted detrimental to the health, safety or*
45 *general welfare of the public, or so as to be considered an ongoing or habitual nuisance.”*

46 **Community Development Director Job Description - Job Code: 505 Range 30**

47 States the Community Development Director (Scott Ellis) *“coordinates the activities of the*
48 *City’s Planning and Zoning Commission.”* Mr. Ellis is the one who determines the agenda items for
49 the Planning and Zoning Commission meetings and sets public hearings for them when necessary. As
50 such, it is he who has refused to allow the P& Z Commission to have a hearing on the matter outlined
51 herein, thereby raising concerns about the equitable application of procedural protocols.

54 **5. FACTUAL BACKGROUND- BASED UPON INFORMATION AND BELIEF**

55 On **March 17, 2008**, the City of Cottonwood granted Conditional Use Permit **PCU 08-002** to
56 Minerals Research, Inc., allowing a slag processing operation in the heart of our children’s facilities
57 (The Receptions Center, the Library, Garrison Park, Cottonwood Kid’s Park and children’s housing)
58 that crushes and screens the copper slag into a dust particulate to be commercially sold.

59 After the Petitioners child began experiencing negative health impacts from exposure to the
60 fugitive copper slag dust at the Children’s Park, Petitioner began investigating MRI and through
61 publicly available information and FIOA requests, where she discovered substantial material
62 violations of “Section 302” of MRI’s Conditional Use Permit.

63 On **August 29, 2023**, Petitioner submitted an official complaint addressed to all P&Z Officials,
64 City Council, City Manager, Mayor, and City Attorney, which presented substantial evidence, outlined
65 every violation, and requested a public hearing to review MRI’s violations, material
66 misrepresentations, and health hazards posed by its operations. These complaints can be seen at
67 <https://www.ocschildsafety.com/complaint-filed-with-city-of-cottonwood>. Hundreds of pages of
68 evidence were submitted to substantiate all violations. Respondents have full access to these
69 complaints and the evidence which validates every claim herein.

- 70 • Most notable among the extensive evidence is proof that material misrepresentations were made
71 during the city meetings where MRI’s official representatives were questioned relating to the
72 proposed operations and provided materially false responses, thereby violating section 302 and
73 providing credence for a revocation hearing. Here is a brief accounting of those violations:
- 74 • On 1/24/2008, at City Council meeting, MRI official representative Tom Hurkett, stated that
75 Minerals Research had no complaints from property owners in Ajo and their operation doesn’t
76 create a dust issue for neighbors. Ajo is where their previous slag crushing operation was.

- 77 • On 3/11/2008, at a City Council Meeting, owner of Minerals Research, Mike Vic, stated the slag
78 product was **proven** safe and copper slag poses **no health risks**.
- 79 • On 3/17/2008, at the P&Z meeting where Minerals Research was granted their CUP, a citizen
80 named Ms. Drake questioned Tom Hurkett, the Minerals Research official representative present
81 to factually answer questions, and asked about a news article from Ajo that said residents were
82 “plagued” by the slag dust from their operations. To quash the concern and increase their chances
83 of CUP approval, Tom Hurkett responded that they were regulated by the Pima Department of
84 Environmental Quality (PDEQ) in Ajo and Minerals Research has **never received a citation** from
85 them.
- 86 ○ A records request from Ajo revealed that on 1/24/2008, at the time Minerals Research
87 claimed on record that they had never received a dust complaint in Ajo, at least 14
88 complaints were filed against MRI with PDEQ. In response to the mounting complaints, a
89 town meeting in Ajo was held relating to continuous problems with the slag dust, with
90 those **SAME MRI representatives**. As a result, Council was materially misled on
91 1/24/2008.
- 92 ○ Minerals Research’s own Materials Data Safety Sheet states that a health hazard may occur
93 through inhalation of dust, that exposure levels of harmful chemicals like arsenic, barium,
94 lead, mercury, and more could exceed regulations. It recommends anyone using the slag
95 particulate use respirator protection. It notes that arsenic is found in the slag particulate in
96 levels that can exceed allowable limits. There is a warning that “This product contains
97 chemicals known in the State of California to cause cancer and birth defects or other
98 reproductive harm.” .
- 99 ■ Additionally, MRI’s MDSS indicates that their slag contains up to **190 mg/kg** of
100 arsenic. This is far over the child health hazard limit of 3.5mg/kg and above the

101 child **fatality limit** for a single days exposure of 162mg/kg of arsenic. A

102 breakdown of hazard levels are outlined below.

103 ▪ Multiple studies from the National Library of Medicine were also provided in the
104 evidence that show copper slag dust can permanently damage lungs on a single
105 inhalation and can cause other lung diseases and cancers.

106 ○ A records request from the Pima Department of Environmental Quality revealed that
107 approximately 9 notices of environmental violations were issued against Minerals
108 Research in Ajo, **at the time official MRI representatives stated on 3/17/2008 that they**
109 **had never received a single citation.** In fact, there were so many consequential
110 violations, that PDEQ sued Minerals Research multiple times for dust emissions in which
111 Minerals Research was required to pay fines, sign consent orders, and were distinguished
112 as a “**high priority violator**” So the Commission and the community were materially
113 misled, again, on record, AT the meeting where MRI was granted their Conditional Use
114 Permit, when Minerals Research stated they had never received a single citation in Ajo
115 from PDEQ.

116 **On 9/29/2023**, the Petitioner received a response from Scott Ellis, Community Development
117 Director, to the 8/29/2023 complaint she filed stating that “**staff** is not able to substantiate that approval of
118 the CUP was obtained by fraud or misrepresentation of a material fact... the law imposes a very high
119 burden of proof for such claims, as well as statutes of limitation.” He goes on to say “**Staff** is not able to
120 determine... that the use to which the permit applies is being conducted detrimental to the health, safety
121 or general welfare of the public or so as to be considered an ongoing or habitual nuisance.”

122 **On October 5th, 2023**, Petitioner received a second response from the Community
123 Development Director stating MRI had received a Notice of Violation from ADEQ and the City has
124 reopened the complaint pending further information from ADEQ.

125 **On October 30, 2023**, Petitioner submitted a second complaint to the Community Development
126 Director with additional violations perpetuated my MRI and a clarification regarding the requested
127 CUP revocation hearing for violations of Section 302. The full complaint is posted on the website
128 ocschildsafety.com/complaint-filed-with-city-of-cottonwood.

- 129 • The complaint notes that section 302 specifically gives the P&Z Commission the authority to
130 determine if alleged violations of the CUP merit revocation, not unnamed “staff” at the City. The
131 response questions what doctors, environmental experts, data, studies, did “staff” consult with to
132 determine that the high arsenic and other toxic heavy metals that are present in the slag cannot
133 pose a threat to human health. And the response re-asserts that the P&Z Commission are the ones
134 granted authority and procedural protocol to hold a hearing, be presented with the evidence, and
135 hold a vote to make the determination if revocation is merited, not un-named “staff” at the City.
- 136 • This response outlined 6 specific public meetings and government correspondences obtained
137 through FOIA requests where it was stated that a Phase 2 Environmental Test was to be performed
138 by MRI prior to operations commencing, however no such testing was done. It was requested in
139 this complaint that MRI operations be suspended until and unless this critical testing was done to
140 ensure copper slag being crushed and dispersed into the surrounding community was indeed safe.
- 141 • Stipulation 10 on MRI’s CUP states that ADEQ permits must be in place prior to operations
142 commencing. MRI applied for an incorrect and non-applicable permit from ADEQ that did not
143 include the required Air Quality Permit and as such it was requested operations be suspended until
144 and unless MRI had obtained the appropriate ADEQ permits. On 9/11/2023 ADEQ issued MRI a
145 Notice of Violation to MRI for A.R.S. § 49-426(A)(2) / A.A.C. R18-2-302(A) Failure to obtain a
146 permit or permit revision from ADEQ prior to operating a source subject to regulation.
- 147 • It was requested the names and positions of everyone involved with the decisions given in Scott
148 Ellis’s response to the Petitioners complaint submitted to Planning and Zoning on August 31,

149 2023, whom are collectively referred to as “the city” and “staff” be disclosed and their medical,
150 environmental, and legal credentials giving jurisdiction to make such unilateral decisions.

151 • Petitioner requested all codes, statutes, and ordinances that give “staff” authority to make the
152 determination no violations of the CUP or Section 302 were perpetuated and to deprive the
153 Commission on that sole and express duty as outlined in Section 302.

154 • **No response was received from any city officials to this secondary complaint.**

155 **On November 20th, 2023**, Petitioner and other concerned citizens attended the regular Planning
156 and Zoning Meeting and read all violations noted herein into the meetings official record, in front of
157 the Community Development Director and the entire Planning and Zoning Commission. The
158 Petitioner again requested the appropriate public hearing be scheduled.

159 After that meeting, the Petitioner was contacted by Shannon Klinge, then P&Z Commissioner,
160 stating her concerns over what was presented to them at the meeting, she mentioned Scott Ellis never
161 provided the Commissioners with any of the complaints the Petitioner filed which were addressed TO
162 THE COMMISSIONERS. Klinge stated to the Petitioner that she began respectfully questioning Scott
163 Ellis about the concerning matters raised and if a revocation hearing or a permit review could be held.
164 Apparently, Mr. Ellis likewise ignored her probing and refused constructive discussions, to the point
165 in which Commissioner Klinge left her position on the Commission.

166 **On September 12th, 2024**, Petitioner sent an electronic correspondence to Scott Ellis providing
167 him with the results of ADEQ’s heavy metal testing in the soils around MRI and provided additional
168 evidence that the slag dust emitted into the community by MRI’s Operations has a strong potential
169 harm to human health and again requesting a section 302 hearing be held:

170 • According to the [Washington State Department of Health](#) study, “**Hazards of Short-Term**
171 **Exposure to Arsenic Contaminated Soil**”

- 172 ○ “Best estimated soil concentrations of arsenic to protect the public from adverse health
173 effects due to short-term exposure were developed for **three** scenarios”
- 174 ○ “child exposure to contaminated soil from accessible areas, resulting in **transient adverse**
175 **health effects (37mg/kg of arsenic in soil)**” This is based off a single day’s exposure
176 considering the typical amount of soil a child normally consumes in a day.
- 177 ○ “Infrequent child exposure to deeply buried or relatively inaccessible, contaminated soil
178 **resulting in DEATH (162mg/kg of arsenic in soil)**” This is based off a single day’s
179 exposure considering the typical amount of soil a child normally consumes in a day.
- 180 ○ “adult resident or worker exposure to subsurface or relatively inaccessible soil resulting in
181 transient adverse health effects (175 milligrams of arsenic/kilogram soil)”
- 182 ● US EPA Regional Screening Levels for children who have more than one route of arsenic
183 exposure creating a health hazard is **3.5 mg/kg** of Arsenic in soil. Since Cottonwood’s water is
184 high in arsenic our children fall under this level of health hazard.
- 185 Soil testing was conducted by ADEQ around the MRI copper slag crushing facility revealed
186 alarming arsenic concentrations:
- 187 ● **Cottonwood Kid's Park** (approximately 1,000 feet from the MRI facility) tested as high as **78**
188 **mg/kg of arsenic in the soil** (ADEQ test result 158). Far above 3.5mg/kg which poses a health
189 hazard in children.
- 190 ● The area directly around MRI's slag crushing operations tested up to **537 mg/kg of arsenic in soil**
191 (ADEQ test results 91,92,93). This facility is just a few hundred yards from our Cottonwood
192 Kid’s Park and dust regularly blows from this area into the Kid’s Park.

- 193 • **Birch Street**, used by trucks transporting slag dust, showed levels as high as **1,339 mg/kg of**
194 **arsenic in soil** (ADEQ test result 113). This is an area children can easily access on their way to
195 the Rec Center and Library just a few hundred feet away. This is a public road.
- 196 • **Police and Fire Complex** tested as high at 204mg/kg of soil arsenic (ADEQ test result 307). This
197 complex is open to the public and across the street from the children’s Recreation Center and
198 children live in apartments next door to this facility.
- 199 ○ These concentrations far exceed the child hazard levels and, in some cases, far surpass the
200 child fatality threshold of 162 mg/kg for arsenic in soil. This is of immediate and extreme
201 concern and clearly demonstrates the slag dust produced from the operations can pose a
202 threat to human health. This email sent on 9/12/24 was never responded to.

203 **6. HOW WE KNOW THAT FUGITIVE COPPER SLAG DUST IS PRODUCED BY THE**
204 **MRI OPERATIONS**

205 On **September 22, 2009**, MRI submitted an application to the Arizona Department of
206 Environmental Quality (ADEQ) for permits related to their slag crushing and screening operations.
207 The application stated that the primary crushing and screening plant alone would likely emit **71.11**
208 **tons per year** of copper slag particulate matter (PM) into the atmosphere and **22.24 tons per year** of
209 PM10 copper slag particulate into the atmosphere, which is particularly dangerous due to its ability to
210 cross the blood-brain barrier.

211 Video evidence of the large amounts of slag dust blowing off the MRI stockpiles and from the
212 plant, into the community can be viewed at <https://www.ocschildsafety.com/>.

213 Additionally, the City of Cottonwood has received a large number of complaints (this Petitioner
214 received through a FOIA request) with many citizens claiming the slag dust in the downwind fallout

215 zone from the MRI facility is negatively affecting human health, pet health, respiratory health, and
216 regularly accumulating on properties and belongings and is affecting businesses.

217 Therefore, we know based off MRI's engineering controls as outlined in their ADEQ permit
218 application that the operations can and will produce a tremendous amount of copper slag dust, we
219 have video evidence of this occurring, and resident testimony to the copper slag dust being an ongoing
220 issue.

221 Despite this compelling evidence, Scott Ellis, the City's Community Development Director, has
222 unlawfully refused to schedule a hearing, thereby neglecting the clear mandate for Planning and
223 Zoning Commission review. This refusal to act contradicts the City's zoning laws, past assurances
224 made by the Commission, and the public health obligations of Respondents.

225 **7. COTTONWOOD POLICE DEPARTMENT'S INVESTIGATION**

226 Following the Community Development Director's refusal to initiate a CUP revocation
227 hearing, on August 12th, 2024, Petitioner lodged a formal complaint with the Cottonwood Police
228 Department, alleging that representatives of MRI committed offenses of unsworn falsification and
229 fraud. These allegations pertained to materially false statements presented to the Planning and Zoning
230 Commission and the public during the meeting where MRI's CUP was approved outlined above.

231 Officer James Repp initiated an investigation under case number W24005464. The
232 investigation concluded that material misrepresentations had indeed occurred. However, due to the
233 expiration of the statute of limitations on criminal offenses, charges could not be pursued.

234 Recognizing the imperative of upholding justice and that there is no statute of limitations for
235 section 302 relating to **active** CUP's, acting Chief of Police, Kevin Murie, convened a meeting with
236 Cottonwood's City Manager, City Attorney, City Prosecutor, and Community Development Director.
237 During this meeting, the officers presented evidence of MRI's material misrepresentations and

238 strongly recommended that, in the interest of justice, a revocation hearing concerning the material
239 misrepresentations be conducted. As of yet, no hearing has been scheduled.

240

241

242 **8. PETITION**

243 A petition has been gathered with around 300 in person signatures and 1,301 online signatures
244 stating in part: *“The fugitive copper ore slag dust containing toxic heavy metals that is blanketing our
245 community coming from the slag crushing operation poses a clear health risk to the citizens and
246 children of Cottonwood based on all science available and doctor testimony... The constant emissions
247 of toxic slag dust are an ongoing nuisance to our community...MRI has never submitted to the City
248 the required Phase 2 Environmental testing before commencing operations.... MRI has been
249 operating in violation of section 302 relating to their conditional use permit... We request immediate
250 action from our government.”* The online petition can be accessed by clicking the link at the top of
251 the page for ocschildssafety.com and goes towards the merits of the need for a revocation hearing in
252 consideration of section 302(G).

253 **9. PRECEDENCE**

254 The Community Development Director and the Planning and Zoning Commission have
255 established a precedent for enforcing Section 302 of the City of Cottonwood Zoning Ordinance.

256 In 2023, the Commission revoked the Conditional Use Permit (CUP) of Foljol Brothers bar
257 and restaurant, citing a violation of Section 302 due to the establishment being closed for six months.
258 Notably, this action was apparently taken without any official complaints filed against the
259 establishment. During the hearing, the owner explained that the closure was due to staffing challenges

260 related to the COVID-19 pandemic and requested an extension to address these issues. Despite his
261 pleas, the Commission denied the request and revoked the CUP for non-compliance with Section 302.

262 This strict enforcement contrasts sharply with the Commission's inaction regarding MRI,
263 despite documented and egregious violations of Section 302 that pose significant harm to the
264 community. The refusal of the Community Development Director to schedule a hearing on this matter
265 constitutes an unequal application of authority, violating constitutional principles.

266 The disparate treatment between Foljot Brothers and MRI represents a clear violation of our
267 constitutional guarantee. The Constitution of the United States is the supreme law of the land to which
268 all government, state and federal, is subject.

269 **Article 2 Section 13 of the Constitution guarantees equal privileges and immunities and**
270 **forbids granting to any citizen, class of citizens, or corporation - privileges or immunities which,**
271 **upon the same terms, shall not equally belong to all citizens or corporations.**

272

273 **10. YAVAPAI COUNTY SUPERVISOR DONNA MICHAELS INVOLVEMENT:**

274 During her four-year term as Supervisor Emeritus, Supervisor Michaels made multiple
275 unsuccessful attempts to engage with the Mayor, Planning & Zoning staff (including Scott Ellis), and
276 other relevant officials regarding this matter, receiving no response.

277 Supervisor Michaels personally met with the Petitioner and other concerned citizens to review
278 evidence of violations of Section 302. After assessing the evidence, she strongly supported the
279 necessity of a revocation hearing but lacked the authority to compel one. In an effort to facilitate
280 action, she reached out to the aforementioned city officials to discuss the matter but received no reply.
281 If necessary, Supervisor Michaels is prepared to testify in court regarding these efforts and the lack of
282 response from city officials.

283 **11. AN UNREASONABLE AMOUNT OF TIME HAS PASSED**

284 As of now, 16 months have elapsed without any subsequent correspondence from the City.

285 This prolonged inaction is unreasonable, especially considering the precedence set by P&Z, and
286 the directives outlined in Section **302(G)** of the City's Zoning Ordinance, which states:

287 1. *"A Conditional Use Permit granted pursuant to this Section may be revoked by the Planning and
288 Zoning Commission, after holding a public hearing to determine whether any condition,
289 stipulation, or term of the approval of the Conditional Use Permit has been violated."*

290 2. *"The Zoning Administrator shall notify the permittee of a potential violation of a Conditional Use
291 Permit by certified mail. If no attempt to bring the violation into conformance is made within
292 fifteen (15) days after notification, and no attempt has been made to contact the City department
293 providing the notification, a review of the Conditional Use Permit shall be scheduled with the
294 Planning and Zoning Commission **at their next available meeting** at which time the CUP shall be
295 subject to possible revocation."*

296 The delay is believed to be due to Scott Ellis's claim on 10/5/2023 that he is waiting on more
297 information from ADEQ before deciding if he will hold a revocation hearing. Compliance with
298 Cottonwood's section 302 is not withing ADEQ's authority and that responsibility cannot be delegated
299 to them by Mr. Ellis. ADEQ's authority is limited to determining MRI's eligibility for an Air Quality
300 Permit. Per statutory limitations, ADEQ cannot consider factors such as:

- 301 • The presence of arsenic in the slag dust, as that heavy metal is not considered in the Clean Air Act.
302 • The dispersion and deposition of slag dust particles into the City and their potential health impacts.
303 • Material misrepresentations made my MRI officials during public meetings prior to obtaining their
304 CUP.

- 305 • Assessing whether MRI's operations pose a threat to human health or constitute an ongoing
306 nuisance to the surrounding community.

307 Given these constraints, ADEQ lacks the appropriate authority to address the concerns raised in
308 the Petitioner's complaints. Therefore, the Community Development Director's reliance on pending
309 information from ADEQ as a basis for inaction is misguided and unfounded. The responsibility to
310 address these issues squarely falls within the purview of the City's Planning and Zoning Commission,
311 as delineated in the Zoning Ordinance.

312 At a community meeting held by ADEQ in Cottonwood, on Sept. 12, 2024, General Counsel for
313 ADEQ personally confirmed to the Petitioner that ADEQ lacks any jurisdiction or statutory standing
314 to make any determinations on the issues raised herein relating to section 302 violations.

315 **12. CONFLICT OF INTEREST**

316 Two potential conflicts of interest may elucidate the persistent obstruction of the requested
317 revocation hearing:

318 1. Financial Transactions Between the City of Cottonwood and MRI.

319 The City of Cottonwood has been receiving payments from MRI in the amount of \$.50/ton
320 of slag material processed. Payment documentation from the City denotes these payments as
321 “royalties.” While no one knows exactly how much slag exists at the Cottonwood site, published
322 articles estimate around 3 million tons, this would translate into \$1,500,000 going to the City, as
323 long as the operations continue. The specific allocation and beneficiaries of these funds remain
324 unclear and obscure; however, it is documented that such payments are being made. Should the
325 Conditional Use Permit (CUP) be revoked, the recipients of these funds would cease to receive
326 them.

327 2. Familial Connections of Vice Chair, Randy Garrison.

328 Randy Garrison, Vice Chair of the Planning and Zoning Commission, has familial ties to
329 the land housing the copper slag pile and to Curtis Lindner, the owner of the slag pile who profits
330 from its sale to MRI. Garrison's grandmother, Phillis Lindner, owned both the land and the rights
331 to the slag pile. She donated the land to what is now the Verde Valley Fair Association and
332 bequeathed the slag pile rights to her grandson, Curtis Lindner, who is Garrison's first cousin. It is
333 uncertain whether Vice Chair Garrison personally benefits financially from the slag sales or stands
334 to gain from future royalties or land rights once the slag is cleared. Nonetheless, the appearance of
335 a conflict is significant.

336 These circumstances raise concerns under Arizona's conflict of interest laws, which
337 mandate that public officers and employees disclose any substantial interest in official decisions
338 and refrain from participating in related matters. Specifically, **A.R.S. § 38-503(A)** states:

339 *"Any public officer or employee of a public agency who has, or whose relative has, a*
340 *substantial interest in any contract, sale, purchase or service to such public agency shall make*
341 *known that interest in the official records of such public agency and shall refrain from voting upon*
342 *or otherwise participating in any manner as an officer or employee in such contract, sale or*
343 *purchase."*

344 Given these potential conflicts, it is imperative to ensure that the interests of justice are upheld.
345 Therefore, should the Court grant the requested Writ of Mandamus, if it's within this court's
346 jurisdiction, it is respectfully requested that the Court:

- 347 • Mandate the recusal of any officials with identified conflicts from participating in the revocation
348 hearing.
- 349 • Initiate an investigation into the nature and recipients of the payments from MRI to the City of
350 Cottonwood and if they are lawful.

351 These actions are essential to maintain public trust and uphold the integrity of governmental
352 proceedings.

353

354

355 **13. REQUEST FOR SEPARATE CONSIDERATION OF EACH VIOLATION**

356 Petitioner respectfully requests that, during the appropriate public hearing, each alleged
357 violation of Section 302 by Minerals Research, Inc. (MRI) be individually addressed and subjected to
358 separate deliberation and voting by the Planning and Zoning Commission. This approach ensures a
359 thorough and impartial evaluation of each specific infraction, upholding the principles of due process
360 and facilitating a comprehensive record of the Commission's determinations on each distinct violation.

361 **14. CONCLUSION**

362 In light of the multiple documented violations of Section 302 by Minerals Research, Inc., it is
363 imperative that the Planning and Zoning Commission fulfill its obligation to conduct a revocation
364 hearing. The Petitioner respectfully requests that this Court issue a Writ of Mandamus compelling the
365 Community Development Director and Commission to promptly schedule and hold this hearing,
366 thereby ensuring adherence to the City's zoning ordinances, past precedence set, and for the protection
367 of public health and welfare.

368 The facts presented herein by the Petitioner are true to the best of her knowledge.

369 **15. LEGAL BASIS FOR MANDAMUS**

- 370 1. Pursuant to A.R.S. § 12-2021, the granting of a Writ of Mandamus is appropriate where a
371 government official has **a clear, non-discretionary duty** to act.

372 *“A writ of mandamus may be issued by the... superior court to any person, inferior tribunal,*
373 *corporation or board, though the governor or other state officer is a member thereof, on the*
374 *verified complaint of the party beneficially interested, to compel, when there is not a plain,*
375 *adequate and speedy remedy at law, performance of an act which the law specially imposes as a*
376 *duty resulting from an office, trust or station, or to compel the admission of a party to the use and*
377 *enjoyment of a right or office to which he is entitled and from which he is unlawfully precluded by*
378 *such inferior tribunal, corporation, board or person”*

- 379 2. Section **302(G)** specifically imposes the duty to holding public hearings for permit revocation to
380 the Planning and Zoning Commission and to determine the validity of violations alleged. The
381 ordinance does not grant the Director unilateral authority to decide the occurrence of violations or
382 to impede the Commission's duty to hold such hearings. By refusing to schedule the necessary
383 hearing, the Director has overstepped his administrative role, effectively usurping the
384 Commission's exclusive authority and depriving it of its official duties as prescribed by law.
- 385 3. By refusing to initiate the timely hearing as prescribed by law, the Respondents have **failed in**
386 **their legal duty**, depriving Petitioner and the public of due process.

387 **16. RELIEF REQUESTED**

388 WHEREFORE, Petitioner respectfully requests this Court to:

- 389 1. Issue a **Writ of Mandamus** directing Respondents to promptly **schedule and hold a public**
390 **hearing** on the violations of CUP PCU 08-002 as instructed under **Section 302(G)**.
- 391 2. Award **fees and other expenses** as outlined in **A.R.S. § 12-2030**.
- 392 3. Grant any further relief the Court deems just and proper.

393

394 Dated this 5th day of February, 2025.

395 Respectfully submitted,

396

397 Jennifer Richards