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HOUSE BILL 157

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO MINING; CHANGING THE DEFINITIONS OF "MINERAL" AND  
"MINING" IN THE NEW MEXICO MINING ACT.

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

Section 1. Section 69-36-3 NMSA 1978 (being Laws 1993,  
Chapter 315, Section 3) is amended to read:

"69-36-3. DEFINITIONS. -- As used in the New Mexico Mining  
Act:

A. "affected area" means the area outside of the  
permit area where the land surface, surface water, ground  
water and air resources are impacted by mining operations  
within the permit area;

B. "commission" means the mining commission  
established in the New Mexico Mining Act;

C. "director" means the director of the division

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1 or his designee;

2 D. "division" means the mining and minerals  
3 division of the energy, minerals and natural resources  
4 department;

5 E. "existing mining operation" means an extraction  
6 operation that produced marketable minerals for a total of at  
7 least two years between January 1, 1970 and [~~the effective~~  
8 ~~date of the New Mexico Mining Act~~] June 18, 1993;

9 F. "exploration" means the act of searching for or  
10 investigating a mineral deposit, including sinking shafts,  
11 tunneling, drilling core and bore holes, digging pits, making  
12 cuts and other works for the purpose of extracting samples  
13 prior to commencement of development or extraction operations  
14 and the building of roads, access ways and other facilities  
15 related to such work. [~~however~~] "Exploration" does not include  
16 activities that cause no or very little surface disturbance,  
17 such as airborne surveys and photographs; use of instruments  
18 or devices that are hand carried or otherwise transported over  
19 the surface to perform magnetic, radioactive or other tests  
20 and measurements; boundary or claim surveying; and location  
21 work or other work that causes no greater disturbance than is  
22 caused by ordinary lawful use of the area by persons not  
23 engaged in exploration [~~are excluded from the meaning of~~  
24 ~~"exploration"~~];

25 G. "mineral" means a nonliving commodity that is

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1 extracted from the earth for use or conversion into a saleable  
2 or usable product, but does not include clays, adobe,  
3 flagstone, potash, sand, gravel, caliche, borrow dirt, quarry  
4 rock used as aggregate for construction, coal, surface water  
5 or subsurface water, geothermal resources, oil and natural gas  
6 together with other chemicals recovered with them,  
7 ~~[commodities]~~ byproduct materials and wastes that are actually  
8 regulated by the federal nuclear regulatory ~~commi~~ssion,  
9 commodities produced from an operation or portion of an  
10 operation actually regulated by the federal nuclear regulatory  
11 commission or waste regulated under Subtitle C of the federal  
12 Resource Conservation and Recovery Act of 1976;

13 H. "mi ning" means the process of obtaining useful  
14 minerals from the earth's crust or from previously disposed or  
15 abandoned mi ning wastes, including exploration, open-cut  
16 mi ning and surface operation, the disposal of refuse from  
17 underground and in situ mi ning, mineral transportation,  
18 concentrating, milling, evaporation, leaching and other  
19 processing. "Mi ning" does not ~~[mean]~~ include the exploration  
20 and extraction of potash, sand, gravel, caliche, borrow dirt  
21 ~~[and]~~ or quarry rock used as aggregate in construction; the  
22 exploration and extraction of natural petroleum in a liquid or  
23 gaseous state by means of wells or pipes; the development or  
24 extraction of coal; the extraction of geothermal resources;  
25 smelting, refining, cleaning, preparation, transportation or

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1 other off-site operations not conducted on permit areas; or  
2 ~~[the extraction, processing or disposal of commodities,~~  
3 ~~byproduct materials or wastes or other activities]~~ an  
4 operation or portion of an operation actually regulated by the  
5 federal nuclear regulatory commission;

6 I. "new mining operation" means a mining operation  
7 that engages in a development or extraction operation after  
8 ~~[the effective date of the New Mexico Mining Act]~~ June 18,  
9 1993 and that is not an existing mining operation;

10 J. "permit area" means the geographical area  
11 defined in the permit for a new mining operation or for an  
12 existing mining operation on which mining operations are  
13 conducted or cause disturbance; and

14 K. "reclamation" means the employment during and  
15 after a mining operation of measures designed to mitigate the  
16 disturbance of affected areas and permit areas and, to the  
17 extent practicable, provide for the stabilization of a permit  
18 area following closure that will minimize future impact to the  
19 environment from the mining operation and protect air and  
20 water resources. "