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HOUSE BILL 190

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

James E. Smith and John M. Sapien

AN ACT

RELATING TO MINING; AMENDING THE DEFINITION SECTION OF THE NEW MEXICO MINING ACT TO INCLUDE CERTAIN SAND, GRAVEL AND QUARRY ROCK AS MINERALS AND TO EXCLUDE CERTAIN SMALL MINING OPERATIONS FROM 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

underscored material = new
~~[bracketed material]~~ = delete

underscored material = new
[bracketed material] = delete

1 established in the New Mexico Mining Act;

2 C. "director" means the director of the division or
3 ~~[his]~~ the director's designee;

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

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

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

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

12 H. "mining" means the process of obtaining useful
13 minerals from the earth's crust or from previously disposed or
14 abandoned mining wastes, including exploration, open-cut mining
15 and surface operation, the disposal of refuse from underground
16 and in situ mining, mineral transportation, concentrating,
17 milling, evaporation, leaching and other processing. "Mining"
18 does not mean the:

19 (1) exploration and extraction of minerals,
20 unless by chemical means, from an open-cut mine with a surface
21 area of less than five contiguous, unreclaimed acres;

22 (2) exploration and extraction of potash,
23 [~~sand, gravel~~] caliche or borrow dirt [~~and quarry rock used as~~
24 ~~aggregate in construction; the~~];

25 (3) exploration and extraction of natural

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[bracketed material] = delete

1 petroleum in a liquid or gaseous state by means of wells or
2 pipes; [~~the~~]

3 (4) development or extraction of coal; [~~the~~]

4 (5) extraction of geothermal resources;

5 (6) smelting, refining, cleaning, preparation,
6 transportation or other off-site operations not conducted on
7 permit areas; or [~~the~~]

8 (7) extraction, processing or disposal of
9 commodities, byproduct materials or wastes or other activities
10 regulated by the federal nuclear regulatory commission;

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

15 J. "permit area" means the geographical area
16 defined in the permit for a new mining operation or for an
17 existing mining operation on which mining operations are
18 conducted or cause disturbance; and

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