

1 SENATE BILL 288

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO MINING; AMENDING A SECTION OF THE NEW MEXICO MINING
12 ACT TO EXCLUDE HUMATE AS A MINERAL.

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

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

17 "69-36-3. DEFINITIONS.--As used in the New Mexico Mining
18 Act:

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

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

25 C. "director" means the director of the division or

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1 ~~[his]~~ the director's 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 date~~
8 ~~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, activities that cause no or very
16 little surface disturbance, such as airborne surveys and
17 photographs, use of instruments or devices that are hand
18 carried or otherwise transported over the surface to perform
19 magnetic, radioactive or other tests and measurements, boundary
20 or claim surveying, location work or other work that causes no
21 greater disturbance than is caused by ordinary lawful use of
22 the area by persons not engaged in exploration, are excluded
23 from the meaning of "exploration";

24 G. "mineral" means a nonliving commodity that is
25 extracted from the earth for use or conversion into a saleable

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1 or usable product, but does not include clays, adobe,
2 flagstone, potash, humate, sand, gravel, caliche, borrow dirt,
3 quarry rock used as aggregate for construction, coal, surface
4 water or subsurface water, geothermal resources, oil and
5 natural gas together with other chemicals recovered with them,
6 commodities, byproduct materials and wastes that are regulated
7 by the nuclear regulatory commission or waste regulated under
8 Subtitle C of the federal Resource Conservation and Recovery
9 Act of 1976;

10 H. "mining" means the process of obtaining useful
11 minerals from the earth's crust or from previously disposed or
12 abandoned mining wastes, including exploration, open-cut mining
13 and surface operation, the disposal of refuse from underground
14 and in situ mining, mineral transportation, concentrating,
15 milling, evaporation, leaching and other processing. "Mining"
16 does not mean the exploration and extraction of potash, humate,
17 sand, gravel, caliche, borrow dirt [~~and~~] or quarry rock used as
18 aggregate in construction; the exploration and extraction of
19 natural petroleum in a liquid or gaseous state by means of
20 wells or pipes; the development or extraction of coal; the
21 extraction of geothermal resources; smelting, refining,
22 cleaning, preparation, transportation or other off-site
23 operations not conducted on permit areas; or the extraction,
24 processing or disposal of commodities, byproduct materials or
25 wastes or other activities regulated by the federal nuclear

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1 regulatory commission;

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

6 J. "permit area" means the geographical area
7 defined in the permit for a new mining operation or for an
8 existing mining operation on which mining operations are
9 conducted or cause disturbance; and

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