

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 142

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE SAN JUAN GENERATING STATION FACILITY AND MINE REMEDIATION AND RESTORATION STUDY ACT; REQUIRING THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENT TO INVESTIGATE REMEDIATION AND RESTORATION OPTIONS FOR THE SAN JUAN GENERATING STATION FACILITY AND MINE; PROVIDING REPORTING REQUIREMENTS; AUTHORIZING THE ENERGY, MINERALS AND NATURAL RESOURCES

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DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENT TO CONTRACT WITH OUTSIDE PROFESSIONALS TO ASSIST IN THE STUDY OF REMEDIATION AND RESTORATION OPTIONS FOR THE SAN JUAN GENERATING STATION FACILITY AND MINE ~~HAFC~~; ~~MAKING APPROPRIATIONS~~ ~~HAFC~~ .

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--This act may be cited as the "San Juan Generating Station Facility and Mine Remediation and Restoration Study Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the San Juan Generating Station Facility and Mine Remediation and Restoration Study Act:

A. "generating facility" means the abandoned coal-fired San Juan generating station in New Mexico;

B. "mine" means the mine associated with the generating facility;

C. "reclamation" means the rehabilitation of the generating facility and mine to make the generating facility and mine acceptable for post-mining purposes that protect the natural resources and aesthetic value of adjoining areas;

D. "remediation" means the process of reversing or stopping environmental damage;

E. "restoration" means the process of restoring site conditions to the state they were in before generating facility and mining disturbances; and

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F. "toxic metal contaminants" means the federal environmental protection agency's twenty-one identified constituents of concern in coal ash residue leachate, for which the federal environmental protection agency requires ground water monitoring. These constituents include boron, calcium, chloride, pH, sulfate, total dissolved solids, antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, fluoride, lead, lithium, mercury, molybdenum, selenium, thallium and radium 226 and 228.

**SECTION 3. [NEW MATERIAL] STUDY AND DOCUMENTATION--  
DISSEMINATION OF STUDY--STUDY CONTENTS--REPORTING  
REQUIREMENTS.--**

A. The energy, minerals and natural resources department and the department of environment shall coordinate efforts to:

(1) contract for a comprehensive study of the generating facility and mine to determine if there has been any environmental contamination of the lands and waters on or adjacent to the generating facility and mine, including the presence of toxic metal contaminants; and

(2) develop an independent reclamation and restoration plan that addresses protecting the environment from contamination for human and ecosystem health and ground and surface water quality and prevents the migration of toxic metal contaminants and off-site pollution.

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B. The energy, minerals and natural resources department and the department of environment shall make the remediation and restoration study available to the public on an accessible internet website and shall summarize the results of any inspections and data analysis in an executive summary.

C. No later than July 1, 2025, the energy, minerals and natural resources department and the department of environment shall provide a copy of the remediation and restoration study to the legislature and present specific measurable steps, informed by input from impacted communities, to oversee and enforce full remediation and restoration plans, including, to the extent possible, the cleanup of the generating facility and mine and prioritizing for employment workers who were previously employed at the generating facility and mine and workers residing in New Mexico. A presentation of the study shall occur at a meeting of the legislative interim committee dealing with water and natural resources and shall detail how the energy, minerals and natural resources department and the department of environment shall ensure timely environmental compliance with the owners of the generating facility and mine to protect public health and welfare.

D. The energy, minerals and natural resources department and the department of environment shall provide annual updates to the legislature about the progress of

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remediation and restoration efforts pursuant to the San Juan Generating Station Facility and Mine Remediation and Restoration Study Act.

E. To the extent allowed by applicable laws, the energy, minerals and natural resources department and the department of environment are authorized to consider the results of this study in any permitting actions related to the generating facility or mine.

F. The independent restoration and remediation plan shall not be considered a rule or standard for purposes of the Water Quality Act but shall be considered a planning document. Planning documents are not rules or standards under the Water Quality Act.

G. As used in this section, "planning document" means a document that is used to guide future actions and strategies to meet water quality rules or standards. Planning documents may include remediation plans, restoration plans and total maximum daily loads.

**SECTION 4.** [NEW MATERIAL] AUTHORIZATION TO CONTRACT WITH OUTSIDE PROFESSIONALS TO ASSIST IN THE REMEDIATION AND RESTORATION STUDY.--The energy, minerals and natural resources department and the department of environment are authorized to contract with environmental engineers, hydrologists, geochemists and other professionals or consultants as needed to perform a rigorous study of the generating facility and mine

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to:

(1) investigate and determine the extent of any environmental contamination;

(2) create an independent restoration and remediation plan to remediate and prevent environmental contamination and impacts to ground water with long-term, measurable cleanup and performance standards; and

(3) address the probability of adverse effects to human health and community resilience, particularly resulting from ground water contamination.

~~HAFC → SECTION 5. APPROPRIATION. -- Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the department of environment for expenditure in fiscal years 2024 through 2027 to carry out the purposes of the San Juan Generating Station Facility and Mine Remediation and Restoration Study Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2027 shall revert to the general fund.~~

~~SECTION 6. APPROPRIATION. -- Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal years 2024 through 2027 to carry out the purposes of the San Juan Generating Station Facility and Mine Remediation and Restoration Study Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2027 shall revert to the~~

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~~general fund.~~ ←H AFC

SECTION H AFC →7. ←H AFC H AFC →5. ←H AFC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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