

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

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

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
REMEDICATION AND RESTORATION OPTIONS FOR THE SAN JUAN GENERATING
STATION FACILITY AND MINE; PROVIDING REPORTING REQUIREMENTS;
AUTHORIZING THE ENERGY, MINERALS AND NATURAL RESOURCES
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; MAKING APPROPRIATIONS.

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

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underscored material = new
[bracketed material] = delete

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

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,

1 thallium and radium 226 and 228.

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

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

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

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

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

23 C. No later than July 1, 2025, the energy, minerals
24 and natural resources department and the department of
25 environment shall provide a copy of the remediation and

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1 restoration study to the legislature and present specific
2 measurable steps, informed by input from impacted communities,
3 to oversee and enforce full remediation and restoration plans,
4 including, to the extent possible, the cleanup of the
5 generating facility and mine and prioritizing for employment
6 workers who were previously employed at the generating facility
7 and mine and workers residing in New Mexico. A presentation of
8 the study shall occur at a meeting of the legislative interim
9 committee dealing with water and natural resources and shall
10 detail how the energy, minerals and natural resources
11 department and the department of environment shall ensure
12 timely environmental compliance with the owners of the
13 generating facility and mine to protect public health and
14 welfare.

15 D. The energy, minerals and natural resources
16 department and the department of environment shall provide
17 annual updates to the legislature about the progress of
18 remediation and restoration efforts pursuant to the San Juan
19 Generating Station Facility and Mine Remediation and
20 Restoration Study Act.

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

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

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

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

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

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

25 (3) address the probability of adverse effects

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1 to human health and community resilience, particularly
2 resulting from ground water contamination.

3 **SECTION 5. APPROPRIATION.**--Five hundred thousand dollars
4 (\$500,000) is appropriated from the general fund to the
5 department of environment for expenditure in fiscal years 2024
6 through 2027 to carry out the purposes of the San Juan
7 Generating Station Facility and Mine Remediation and
8 Restoration Study Act. Any unexpended or unencumbered balance
9 remaining at the end of fiscal year 2027 shall revert to the
10 general fund.

11 **SECTION 6. APPROPRIATION.**--Five hundred thousand dollars
12 (\$500,000) is appropriated from the general fund to the energy,
13 minerals and natural resources department for expenditure in
14 fiscal years 2024 through 2027 to carry out the purposes of the
15 San Juan Generating Station Facility and Mine Remediation and
16 Restoration Study Act. Any unexpended or unencumbered balance
17 remaining at the end of fiscal year 2027 shall revert to the
18 general fund.

19 **SECTION 7. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is July 1, 2023.