

## Amendment No. 376

Assembly Amendment to Assembly Bill No. 346

(BDR 46-1035)

**Proposed by:** Assembly Committee on Natural Resources, Agriculture, and Mining

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION |                          |      |                          | Initial and Date | SENATE ACTION |                          |      |                          | Initial and Date |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------------------|------|--------------------------|------------------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            | Adopted       | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Concurred In  | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Receded       | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DLJ/JRS



Date: 4/16/2013

A.B. No. 346—Revises provisions governing mining reclamation. (BDR 46-1035)



ASSEMBLY BILL NO. 346—ASSEMBLYMEN BOBZIEN,  
PIERCE; DALY, DIAZ AND SPRINKLE

MARCH 18, 2013

JOINT SPONSOR: SENATOR SEGERBLOM

Referred to Committee on Natural Resources,  
Agriculture, and Mining

SUMMARY—Revises provisions governing mining reclamation. (BDR 46-1035)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to mining; ~~revising the duties of the Division of Environmental Protection of the State Department of Conservation and Natural Resources concerning the approval of a plan for reclamation for an exploration project or mining operation; requiring the State Environmental Commission to adopt regulations necessary to assist the Division and the Commission to carry out certain provisions governing mining reclamation;~~ requiring ~~each plan~~ certain plans for reclamation of an exploration project or mining operation to provide for ~~the reclamation~~ public nonmotorized access to the water level of a pit lake; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, a person who applies for a permit for a mining operation from the Division of Environmental Protection of the State Department of Conservation and Natural Resources must file with the Division a plan for the reclamation of any land damaged as a result of the mining operation. (NRS 519A.210) Existing law also requires a person who applies for a permit to engage in an exploration project to agree in writing to assume responsibility for the reclamation of any surface area damaged as a result of the exploration project. (NRS 519A.190) Existing law imposes certain requirements on a plan for reclamation regarding the timing of reclamation activities, the provision of vegetative cover and the stability of the land disturbed by the mining operation or exploration project. The operator of the mining operation or exploration project may request from the Division an exception for open pits and rock faces which may not be feasible to reclaim. If such an exception is granted, the Division must require the operator to take sufficient measures to ensure public safety. (NRS 519A.230) **Section 3** of this bill requires that a plan for reclamation of an exploration project or mining operation must provide for the reclamation of a pit lake ~~is a body of water that has resulted primarily from the seepage of groundwater into a pit or other excavation resulting from the exploration project or mining operation, and that~~ if the pit lake will have

17 a predicted filled surface area of more than 200 acres. The plan for reclamation for such  
18 a pit lake must provide for ~~safe~~ at least one point of public nonmotorized access for  
19 traffic to ~~land beneficial and recreational use~~ the water level of the pit lake. Section 3 also  
20 requires that an operator seeking an exception to any of the requirements for a reclamation  
21 plan must petition the State Environmental Commission for such an exception; and, in the  
22 petition, the operator must demonstrate to the satisfaction of the Commission that the  
23 reclamation requirement from which the exception is sought is not feasible. provides that  
24 certain past or present owners, operators, lessees or occupants of the premises for which  
25 public access to a pit lake is provided pursuant to a plan for reclamation owe no duty to  
26 keep the premises safe or to give warning of certain hazardous conditions, and do not  
27 incur liability for certain injuries that may occur on the premises in certain  
28 circumstances. Section 4 of this bill requires that an operator who has an ongoing  
29 reclamation plan on file with the Division before October 1, 2013, and whose mining  
30 operation or exploration project resulted in or included a pit lake ~~to file an amended~~  
31 reclamation plan with the Division provide, if feasible, on or before ~~January~~ July 1, 2014,  
32 ~~that addresses the requirements of this bill regarding the reclamation of pit lakes.~~ for at least  
33 one point of public nonmotorized access to the pit lake as required in section 3.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 519A.140 is hereby amended to read as follows:~~

~~519A.140 The Division shall:~~

~~1. Administer and enforce the provisions of NRS 519A.010 to 519A.280,  
inclusive, and the regulations adopted by the Commission pursuant to NRS  
519A.160.~~

~~2. Employ persons who are experienced and qualified in the area of  
reclamation.~~

~~3. Enter into a memorandum of understanding with the United States Bureau  
of Land Management and the United States Forest Service concerning the adoption  
by those agencies of plans of reclamation that:~~

~~(a) Apply to mining operations or exploration projects that are conducted on a  
site which includes public land administered by a federal agency and privately  
owned land; and~~

~~(b) Substantially provide for the reclamation and security required by this  
chapter.~~

~~4. Develop and offer to operators on a regular basis educational workshops  
that include and emphasize reclamation training and techniques suitable for small  
exploration projects and mining operations.~~

~~5. Offer advice and technical assistance to operators.~~

~~6. ~~[Approve.] Except as otherwise provided in NRS 519A.230, approve,~~  
reject or impose conditions upon the approval of any plan for reclamation for an  
exploration project or mining operation.~~

~~7. Provide the Division of Minerals of the Commission on Mineral Resources  
with a copy of any conditions imposed upon an approved plan and the security  
required, on the same day that information is sent to the operator.] (Deleted by  
amendment.)~~

Sec. 2. ~~[NRS 519A.160 is hereby amended to read as follows:~~

~~519A.160 The Commission shall adopt regulations:~~

~~1. Establishing reasonable fees, based on the actual cost of administration and  
enforcement, to be charged by the Division for an application for and the issuance  
of a permit, the rates of which must be set to differentiate between mining  
operations located on federal land and those operations on state or private land;~~

~~2. Consistent with regulations adopted by the United States Bureau of Land Management that are contained in Title 43 of the Code of Federal Regulations and that do not conflict with any provision of this chapter or any other regulation adopted by the Commission pursuant to this section;~~

~~3. Setting forth the information required in relation to the mining operation and maps of the area for inclusion in the checklist developed pursuant to NRS 519A.220;~~

~~4. Providing for the holding of reclamation performance bonds or other surety by the State and conditions governing the release and forfeiture of those bonds or other surety;~~

~~5. Providing for a schedule within which reclamation must be completed;~~

~~6. Establishing a schedule of civil penalties for the violation of NRS 519A.010 to 519A.280, inclusive;~~

~~7. Providing for informational filings related to reclamation by small mining operations; and~~

~~8. Necessary to enable the Division *and the Commission* to carry out the provisions of NRS 519A.010 to 519A.280, inclusive, and the regulations adopted by the Commission pursuant to this section.~~ **(Deleted by amendment.)**

**Sec. 3.** NRS 519A.230 is hereby amended to read as follows:

519A.230 1. A plan for reclamation must provide:

(a) That reclamation activities, particularly those relating to the control of erosion, must be conducted simultaneously with the mining operation to the extent practicable, and otherwise must be initiated promptly upon the completion or abandonment of the mining operation in any area that will not be subject to further disturbance. Reclamation activities must be completed within the time set by the regulations adopted by the Commission pursuant to NRS 519A.160.

(b) For vegetative cover if appropriate to the future use of the land.

(c) For the reclamation of all land disturbed by the exploration project or mining operation to a stability comparable to that of adjacent areas.

~~(d) For the reclamation of a pit lake that provides:~~

~~(1) Safe public access; and~~

~~(2) Beneficial and recreational use of the pit lake.~~

2. The operator may request the Division to grant an exception for open pits and rock faces which may not be feasible to reclaim. ~~to a requirement of this section by filing a petition with the Commission. In the petition, the operator must demonstrate to the satisfaction of the Commission that the requirement of this section from which an exception is sought is not feasible.~~ If an exception is granted, other than for a pit lake for which public access is provided in a plan for reclamation pursuant to subsection 3, the Division shall require the operator to take sufficient measures to ensure public safety.

3. For a pit lake that will have a predicted filled surface area of more than 200 acres, a plan for reclamation must provide, in consultation with the operator and each landowner, including any federal land manager, and, if feasible, for at least one point of public nonmotorized access to the water level of the pit lake when the pit in which the pit lake is located reaches at least 90 percent of its predicted maximum capacity.

4. A protected person with respect to any premises for which public access to a pit lake is provided in a plan for reclamation pursuant to subsection 3 owes no duty to keep the premises, including, without limitation, the access area and the pit lake and its surroundings, safe for entry or use by any other person for participation in any activity, or to give a warning of any hazardous condition, activity or use of the premises to any person entering the premises.

1 5. If a protected person gives permission to another person to access or  
2 engage in any activity with respect to any premises specified in subsection 4, the  
3 protected person does not thereby extend any assurance that the premises are safe  
4 for that activity or any other purpose or assume responsibility for or incur any  
5 liability for any injury to any person or property caused by any act of a person to  
6 whom the permission is granted. The provisions of this subsection do not confer  
7 any liability upon a protected person for any injury to any other person or  
8 property, whether actual or implied, or create a duty of care or ground of liability  
9 for any injury to any person or property.

10 6. Except in the case of an emergency, an operator shall not depart from an  
11 approved plan for reclamation without prior written approval from the Division.

12 ~~44~~ 7. Reclamation activities must be economically and technologically  
13 practicable in achieving a safe and stable condition suitable for the use of the land.

14 ~~45~~ 8. As used in this section, "pit lake":

15 (a) "Pit lake" means a body of water that has resulted primarily from the  
16 seepage of groundwater into a pit or other excavation resulting from the  
17 operation off, after the completion of an exploration project or mining operation  
18 from an open pit that has penetrated the water table of the area in which the  
19 pit is located.

20 (b) "Protected person" means any past or present:

21 (1) Owner of any estate or interest in any premises for which public  
22 access to a pit lake is provided in a plan for reclamation pursuant to subsection 3;

23 (2) Operator of all or any part of the premises, including, without  
24 limitation, any entity that has conducted or is conducting a mining operation or  
25 any reclamation activity with respect to the premises;

26 (3) Lessee or occupant of all or any part of the premises; or

27 (4) Contractor, subcontractor, employee or agent of any such owner,  
28 operator, lessee or occupant.

29 Sec. 4. 1. On or before ~~January~~ July 1, 2014, a plan for reclamation of an  
30 exploration project or mining operation filed with the Division of Environmental  
31 Protection of the State Department of Conservation and Natural Resources before  
32 October 1, 2013, that includes a pit lake having a filled surface area of more  
33 than 200 acres must be amended and refiled as necessary by provide, in  
34 consultation with the operator of the exploration project or mining operation to  
35 ensure compliance with the amendatory provisions of this act regarding the  
36 reclamation of a pit lake if:

37 (a) The reclamation activities set forth in the plan are not complete on or before  
38 October 1, 2013; and

39 (b) The exploration project or mining operation resulted in or included such a  
40 pit lake, and each landowner, including any federal land manager, and, if  
41 feasible, for at least one point of public nonmotorized access to the water level  
42 of the pit lake when the pit in which the pit lake is located reaches at least 90  
43 percent of its predicted maximum capacity. If it is determined that such access  
44 is warranted, the plan for reclamation may be amended and refiled.

45 2. As used in this section, "pit lake" has the meaning ascribed to it in  
46 subsection ~~44~~ 8 of NRS 519A.230, as amended by section 3 of this act.