

Amendment No. 883

Senate Amendment to Assembly Bill No. 346 First Reprint (BDR 46-1035)

Proposed by: Senate Committee on Natural Resources

Amendment Box: Replaces Amendment No. 709.

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

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	☐	Lost	☐	_____		Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____		Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____		Receded	☐	Not	☐	_____

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: 5/24/2013

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; requiring certain plans for reclamation of an exploration project or mining operation to provide for 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 if the pit lake will have a predicted filled surface area of more than 200 acres. The plan for reclamation for such a pit lake must **if feasible, and subject to the right of the landowner to determine the final and ultimate use of the premises,** provide for at least one point of public nonmotorized access for traffic to the water level of the pit lake. **Section 3** also provides that certain past or present owners, operators, lessees or occupants of the premises for which public access to a pit lake is provided pursuant to a plan for reclamation owe no duty to keep the premises safe or to give warning of certain hazardous conditions, and do not incur liability for certain injuries that may occur on the premises in certain circumstances. **Section 4** of this bill requires that an operator who has an ongoing reclamation plan on file with the Division before October 1, 2013, and whose mining operation or exploration project resulted in or included a pit lake provide, ~~if feasible,~~ on or before July 1, 2014, **if feasible, and subject to the right of the**

landowner to determine the final and ultimate use of the premises, for at least 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. (Deleted by amendment.)

Sec. 2. (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.

2. The operator may request the Division to grant an exception for open pits and rock faces which may not be feasible to reclaim. 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~~ Except as otherwise provided in this subsection, 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. This subsection:

(a) Must not be construed to impede the ability of any landowner, including any federal land manager, of any premises on which a pit lake is located to determine the final and ultimate use of those premises;

(b) Does not require any landowner, including any federal land manager, who is consulted pursuant to this subsection to agree to allow access to any pit lake; and

(c) Does not alter any contract or agreement entered into before October 1, 2013, between an operator and a landowner, including any federal land manager.

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.

5. If a protected person gives permission to another person to access or engage in any activity with respect to any premises specified in subsection 4, the protected person does not thereby extend any assurance that the premises are safe for that activity or any other purpose or assume responsibility for or incur any liability for any injury to any person or property caused by any act of a person to whom the permission is granted. The provisions of this subsection do not confer

1 *any liability upon a protected person for any injury to any other person or*
2 *property, whether actual or implied, or create a duty of care or ground of liability*
3 *for any injury to any person or property.*

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

6 ~~4-4~~ 7. Reclamation activities must be economically and technologically
7 practicable in achieving a safe and stable condition suitable for the use of the land.

8 8. *As used in this section:*

9 (a) *"Pit lake" means a body of water that has resulted, after the completion*
10 *of an exploration project or mining operation, from an open pit that has*
11 *penetrated the water table of the area in which the pit is located.*

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

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

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

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

19 (4) *Contractor, subcontractor, employee or agent of any such owner,*
20 *operator, lessee or occupant.*

21 **Sec. 4.** 1. On or before July 1, 2014, a plan for reclamation of an
22 exploration project or mining operation filed with the Division of Environmental
23 Protection of the State Department of Conservation and Natural Resources before
24 October 1, 2013, that includes a pit lake having a filled surface area of more than
25 200 acres must provide, in consultation with the operator of the exploration project
26 or mining operation and each landowner, including any federal land manager, and,
27 if feasible, for at least one point of public nonmotorized access to the water level of
28 the pit lake when the pit in which the pit lake is located reaches at least 90 percent
29 of its predicted maximum capacity. If it is determined that such access is warranted,
30 the plan for reclamation may be amended and refiled. **This subsection:**

31 **(a) Must not be construed to impede the ability of any landowner,**
32 **including any federal land manager, of any premises on which a pit lake is**
33 **located to determine the final and ultimate use of those premises;**

34 **(b) Does not require any landowner, including any federal land manager,**
35 **who is consulted pursuant to this subsection to agree to allow access to any pit**
36 **lake; and**

37 **(c) Does not alter any contract or agreement entered into before October**
38 **1, 2013, between an operator and a landowner, including any federal land**
39 **manager.**

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