

SENATE BILL NO. 173—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON PUBLIC LANDS)

FEBRUARY 18, 2015

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing mining reclamation.
(BDR 46-482)

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 reclamation; revising provisions governing exceptions to certain reclamation requirements for open pit mines; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a person who desires to engage in an exploration project or
2 mining operation must apply for and obtain a permit from the Division of
3 Environmental Protection of the State Department of Conservation and Natural
4 Resources. (NRS 519A.180, 519A.200) An application for such a permit must be
5 accompanied by a plan for reclamation of the land to be damaged or disturbed by
6 the project or operation. (NRS 519A.190, 519A.210, 519A.230) Existing law
7 authorizes the Division to grant an exception to reclamation requirements for an
8 open pit project or operation. (NRS 519A.230) If the Division is requested to grant
9 an exception to a requirement that material be returned to the open pit from which it
10 was extracted, this bill requires that the Division determine whether the project or
11 operation will result in the creation of a pit lake, a body of water resulting from a
12 pit that penetrates the water table. If the Division determines that a pit lake will be
13 created, the operator applying for the exception must show that the operator has a
14 water right for the amount of water estimated to be lost by evaporation from the pit
15 lake as the lake fills and when it reaches its predicted filled surface area. If such a
16 showing is not made to the satisfaction of the Division, this bill requires the
17 Division to deny the request for the exception.



* S B 1 7 3 *

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

Section 1. 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~~ *Subject to the limitations of subsection 3, 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 ~~3-1~~ 4, the Division shall require the operator to take sufficient measures to ensure public safety.*

3. *If the Division is requested by an operator to grant an exception to a requirement that material be returned to the open pit from which it was extracted, the Division shall determine whether the exploration project or mining operation will result in the creation of a pit lake. If the Division determines that the exploration project or mining operation will result in the creation of a pit lake, the operator must show to the satisfaction of the Division that the operator owns or holds a water right for the amount of water estimated to be lost by evaporation from the pit lake as the lake fills and when it reaches its predicted filled surface area. If such a showing is not made, the Division shall deny the request for the exception.*

4. 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



* S B 1 7 3 *

1 located reaches at least 90 percent of its predicted maximum
2 capacity. This subsection:

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

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

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

13 ~~14-1~~ 5. A protected person with respect to any premises for
14 which public access to a pit lake is provided in a plan for
15 reclamation pursuant to subsection ~~13-1~~ 4 owes no duty to keep the
16 premises, including, without limitation, the access area and the pit
17 lake and its surroundings, safe for entry or use by any other person
18 for participation in any activity, or to give a warning of any
19 hazardous condition, activity or use of the premises to any person
20 entering the premises.

21 ~~15-1~~ 6. If a protected person gives permission to another person
22 to access or engage in any activity with respect to any premises
23 specified in subsection ~~14-1~~ 5, the protected person does not thereby
24 extend any assurance that the premises are safe for that activity or
25 any other purpose or assume responsibility for or incur any liability
26 for any injury to any person or property caused by any act of a
27 person to whom the permission is granted. The provisions of this
28 subsection do not confer any liability upon a protected person for
29 any injury to any other person or property, whether actual or
30 implied, or create a duty of care or ground of liability for any injury
31 to any person or property.

32 ~~16-1~~ 7. Except in the case of an emergency, an operator shall
33 not depart from an approved plan for reclamation without prior
34 written approval from the Division.

35 ~~17.—Reclamation}~~

36 8. *Subject to the provisions of this chapter, reclamation*
37 activities must be economically and technologically practicable in
38 achieving a safe and stable condition suitable for the use of the land.

39 ~~18-1~~ 9. As used in this section:

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

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



(1) Owner of any estate or interest in any premises for which public access to a pit lake is provided in a plan for reclamation pursuant to subsection ~~13;~~ 4;

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

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

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

Sec. 2. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2015, for all other purposes.

