

**Amendment No. 346**

Assembly Amendment to Assembly Bill No. 52 (BDR 48-258)

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

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 52 (§ 19).

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

EMR/HAC



Date: 4/21/2017

A.B. No. 52—Revises provisions relating to dissolved mineral resources.  
(BDR 48-258)





ASSEMBLY BILL NO. 52—COMMITTEE  
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE COMMISSION ON MINERAL RESOURCES)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Natural Resources,  
Agriculture, and Mining

SUMMARY—~~[Revises]~~ Establishes provisions relating to dissolved mineral resources. (BDR 48-258)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Executive Budget.

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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 water; defining ~~[the term “dissolved”]~~ certain terms relating to dissolved mineral ~~[resource”];~~ resources; setting forth certain provisions relating to drilling and operation of a dissolved mineral resource exploration well and the operation of a dissolved mineral resource exploration project; establishing certain requirements for an application to drill or operate a dissolved mineral resource exploration well or wells; providing that certain losses of water by a dissolved mineral exploration well or wells are not subject to certain appropriation procedures; requiring the Commission on Mineral Resources to ~~[impose]~~ establish a fee for the issuance of a permit to drill or operate a dissolved mineral resource exploration well; requiring the Commission ~~[and]~~ , in coordination with the Division of Water Resources of the State Department of Conservation and Natural Resources , to adopt certain regulations; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

~~[Existing law sets forth provisions governing exploration for and the ownership and use of geothermal resources, including, without limitation, the permitting of geothermal wells by the Administrator of the Division of Minerals of the Commission on Mineral Resources. (Chapter 534A of NRS) Section 1.4 of this bill provides that the provisions of this bill apply only to the exploration for dissolved mineral resources and not the ownership of such resources. Sections 3 and 12-14 of this bill define the terms “dissolved mineral resource,” “dissolved mineral resource exploration borehole,” “dissolved mineral resource exploration project” and “dissolved mineral resource exploration well.” Sections 16 and 17 of this bill provide for the issuance by the Administrator of the Division of Minerals of the Commission on Mineral Resources of a~~

permit to drill a dissolved mineral resource exploration well or operate a dissolved mineral resource exploration project. ~~[in the same manner as such permits are issued for geothermal wells and geothermal resource projects.]~~ Section 18 of this bill provides that the reasonable loss of water of not more than 5 acre-feet during the testing and sampling of water pumped by a dissolved mineral resource exploration well or dissolved mineral resource exploration project is not subject to the appropriation procedures of chapters 533 and 534 of NRS, but a dissolved mineral resource exploration well or a dissolved mineral resource exploration project that pumps more than 5 acre-feet of water is required to follow such procedures. Section 19 of this bill requires the Commission on Mineral Resources to establish a fee of not more than \$1,500 for the issuance of a permit to drill a dissolved mineral resource exploration well or operate a dissolved mineral resource exploration project. Section ~~14~~ 20 of this bill requires the Commission, in coordination with the Division of Water Resources of the State Department of Conservation and Natural Resources, to adopt regulations to carry out a program for regulating the drilling or operation of dissolved mineral resource exploration boreholes, dissolved mineral resource exploration wells, ~~and~~ and dissolved mineral resource exploration projects. Section 21 of this bill provides that a person who violates any provision of this bill or any regulations adopted pursuant thereto or an order of the Division of Minerals is subject to a penalty.

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

**Section 1.** ~~[Chapter 534A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.] (Deleted by amendment.)~~

**Sec. 1.2.** Title 48 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 1.4 to 21, inclusive, of this act.

**Sec. 1.4.** 1. The provisions of this chapter govern exploration for dissolved mineral resources.

2. Ownership of dissolved mineral resources is determined by the applicable federal and state laws or regulations.

3. Except as expressly provided, nothing in this chapter shall be construed to abrogate the provisions of chapter 533, 534 or 534A of NRS.

**Sec. 1.6.** As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2 to 15, inclusive, of this act have the meanings ascribed to them in those sections.

**Sec. 2.** "Administrator" means the Administrator of the Division of Minerals of the Commission on Mineral Resources.

**Sec. 3.** "Dissolved mineral resource" means all dissolved or entrained minerals that may be obtained from the ~~medium~~ naturally occurring liquid or brine in which they are found ~~and which are not used for purposes of recovering heat from the medium or brine, but excluding hydrocarbons and helium.~~ including, without limitation, lithium. The term does not include a geothermal resource as defined in NRS 534A.010.

**Sec. 4.** ~~["Geothermal resource" means the natural heat of the earth and the energy associated with that natural heat, pressure and all dissolved or entrained minerals that may be obtained from the medium used to transfer that heat, but excluding hydrocarbons and helium.] (Deleted by amendment.)~~

**Sec. 5.** ~~[NRS 534A.010 is hereby amended to read as follows:  
534A.010 As used in this chapter, unless the context otherwise requires, ["geothermal resource" means the natural heat of the earth and the energy associated with that natural heat, pressure and all dissolved or entrained minerals that may be obtained from the medium used to transfer that heat, but excluding~~

hydrocarbons and helium.] ~~the words and terms defined in sections 2, 3 and 4 of this act have the meaning ascribed to them in those sections.~~ (Deleted by amendment.)

Sec. 6. [NRS 534A.031 is hereby amended to read as follows:

~~534A.031 1. Any exploration and subsurface information obtained as a result of a geothermal or dissolved mineral resource project must be filed with the Division of Minerals of the Commission on Mineral Resources within 20 days after it is accumulated. The information is confidential for 5 years after the date of filing and may not be disclosed during that time without the express written consent of the operator of the project, except that it must be made available by the Division to the State Engineer or any other agency of the State upon request. The State Engineer or other agency shall keep the information confidential.~~

~~2. If any information made confidential by subsection 1 is submitted to any other state or local governmental entity in connection with an application for a special use permit or any other license, permit or similar approval, the entity shall keep the information confidential during the period the information is confidential pursuant to subsection 1.]~~ (Deleted by amendment.)

Sec. 7. [NRS 534A.040 is hereby amended to read as follows:

~~534A.040 A consumptive use of water brought to the surface outside of a geothermal well or dissolved mineral well is subject to the appropriation procedures of chapters 522 and 534 of NRS, except for:~~

~~1. Water that is removed from an aquifer or geothermal reservoir to develop and obtain geothermal resources or dissolved mineral resources if the water is returned to or reinjected into the same aquifer or reservoir; or~~

~~2. The reasonable loss of water;~~

~~(a) During a test of a geothermal well [;] or dissolved mineral well; or~~

~~(b) From the temporary failure of all or part of a system that removes water from an aquifer or geothermal reservoir, transfers the heat from that water and reinjects that water into the same aquifer or reservoir.]~~ (Deleted by amendment.)

Sec. 8. [NRS 534A.060 is hereby amended to read as follows:

~~534A.060 1. A person may not drill or operate a geothermal well or dissolved mineral well or drill an exploratory well without obtaining a permit from the Administrator [of the Division of Minerals of the Commission on Mineral Resources] and complying with the conditions of the permit.~~

~~2. An application must set forth such information as the Administrator requires by regulation.]~~ (Deleted by amendment.)

Sec. 9. [NRS 534A.070 is hereby amended to read as follows:

~~534A.070 1. The Administrator [of the Division of Minerals of the Commission on Mineral Resources] shall approve or reject an application for a permit to drill an exploratory well within 10 days after the Administrator receives the application in proper form. The permit must not be effective for more than 2 years, but may be extended by the Administrator.~~

~~2. Upon receipt of an application for a permit to drill or operate a geothermal well [;] or dissolved mineral well, the Administrator of the Division of Minerals shall transmit copies of the application to the State Engineer, the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources, and the Director of the Department of Wildlife. After consultation with the State Engineer, the Administrator of the Division of Environmental Protection, and the Director of the Department of Wildlife, the Administrator of the Division of Minerals may issue a permit to drill or operate a geothermal well or dissolved mineral well if it is determined that issuance of a permit is consistent with:~~

~~(a) The policies specified in NRS 445A.305 and 445B.100;~~

1 ~~— (b) The purposes of chapters 523 and 524 of NRS; and~~

2 ~~— (c) The purposes specified in chapter 501 of NRS.~~

3 ~~— 2. The Administrator [of the Division of Minerals] shall approve or reject the~~  
4 ~~application to drill or operate a geothermal well *or dissolved mineral well* within 90~~  
5 ~~days after the Administrator receives it in proper form, unless it is determined that a~~  
6 ~~conflict exists pursuant to subsection 2 or a public hearing is necessary pursuant to~~  
7 ~~subsection 4. Notice of the conflict or need for a public hearing must be provided to~~  
8 ~~the applicant within the 90-day period.~~

9 ~~— 4. The State Engineer and the Administrator [of the Division of Minerals]~~  
10 ~~may hold public hearings jointly or separately to gather such evidence or~~  
11 ~~information as they deem necessary for a full understanding of all the rights~~  
12 ~~involved and to guard properly the public interest.~~

13 ~~— 5. A permit issued pursuant to this section must include any conditions:~~

14 ~~— (a) Deemed necessary by the Administrator [of the Division of Minerals] to~~  
15 ~~carry out the purposes of this section; and~~

16 ~~— (b) Imposed by the State Engineer consistent with the provisions of chapters~~  
17 ~~523 and 524 of NRS.] (Deleted by amendment.)~~

18 **Sec. 10.** ~~[NRS 534A.080 is hereby amended to read as follows:~~

19 ~~— 534A.080 1. The Commission on Mineral Resources shall impose and~~  
20 ~~collect a fee for examining and filing an application for a permit to drill or operate a~~  
21 ~~geothermal well *or dissolved mineral well* or to drill an exploratory well. The fee~~  
22 ~~must be deposited with the State Treasurer, for credit to the Account for the~~  
23 ~~Division of Minerals created in the State General Fund pursuant to NRS 513.103.~~

24 ~~— 2. The fee may be based in part on the number of acres of land being used by~~  
25 ~~the person who holds the permit.~~

26 ~~— 3. The Commission and the Division of Minerals may use the money~~  
27 ~~deposited in the Account for the Division of Minerals pursuant to this section to~~  
28 ~~administer the provisions of this chapter.] (Deleted by amendment.)~~

29 **Sec. 11.** ~~[NRS 534A.090 is hereby amended to read as follows:~~

30 ~~— 534A.090 The Commission on Mineral Resources [may]:~~

31 ~~— 1. *Shall, in coordination with the Division of Water Resources of the State*~~  
32 ~~*Department of Conservation and Natural Resources, adopt regulations to carry*~~  
33 ~~*out a program for regulating the drilling of exploration and production wells for*~~  
34 ~~*dissolved mineral resources; and*~~

35 ~~— 2. *May adopt any other regulations necessary for carrying out the provisions*~~  
36 ~~*of this chapter.] (Deleted by amendment.)*~~

37 **Sec. 12.** *“Dissolved mineral resource exploration borehole” means a*  
38 *penetration in the ground that is made to sample or obtain water or chemical,*  
39 *geologic, geophysical or geotechnical information about a dissolved mineral*  
40 *resource and which cannot be pumped as a well.*

41 **Sec. 13.** *“Dissolved mineral resource exploration project” means a project,*  
42 *which may consist of one or more dissolved mineral resource exploration wells,*  
43 *that is conducted on:*

44 *1. Private land owned or controlled by a natural person or an exploration*  
45 *or mining company; or*

46 *2. Public land in relation to a mining claim.*

47 **Sec. 14.** *“Dissolved mineral resource exploration well” means a well drilled*  
48 *to measure, test or sample water, including, without limitation, pumping tests, to*  
49 *determine whether dissolved mineral resources are present in concentrations and*  
50 *volumes sufficient to justify production.*

51 **Sec. 15.** *“Division” means the Division of Minerals of the Commission on*  
52 *Mineral Resources.*

1        Sec. 16. 1. A person may not drill a dissolved mineral resource  
2 exploration well or operate a dissolved mineral resource exploration project  
3 without first obtaining a permit from the Administrator and complying with the  
4 conditions of the permit.

5        2. To obtain a permit to drill a dissolved mineral resource exploration well  
6 or operate a dissolved mineral resource exploration project, a person must submit  
7 an application for a permit to the Administrator in the form and containing such  
8 information as prescribed by the Administrator.

9        3. An application submitted pursuant to subsection 2 must include:

10        (a) The location, design and expected depth of the well or wells;

11        (b) The materials of construction for the well or wells;

12        (c) The status of the land on which the well or wells will be constructed; and

13        (d) A plan for monitoring the well or wells and a plan for plugging and  
14 abandoning the well or wells in accordance with any regulations adopted  
15 pursuant to this chapter.

16        4. In addition to any other requirement of this section, a dissolved mineral  
17 resource exploration well or a dissolved mineral resource exploration borehole  
18 must be drilled by a person who is licensed to drill wells pursuant to NRS  
19 534.140.

20        5. A person does not need to obtain a permit pursuant to this section to drill  
21 a dissolved mineral resource exploration borehole.

22        Sec. 17. 1. The Administrator shall approve or reject an application for a  
23 permit to drill a dissolved mineral resource exploration well or operate a  
24 dissolved mineral resource exploration project within 30 days after the  
25 Administrator receives an application in proper form, unless the Administrator  
26 determines that the application conflicts with the requirements of NRS 445A.300  
27 to 445A.730, inclusive, and any regulations adopted pursuant thereto, or any  
28 other laws and regulations administered by the Division of Environmental  
29 Protection of the State Department of Conservation and Natural Resources.

30        2. A permit issued pursuant to this section must not be effective for more  
31 than 2 years, but may be extended by the Administrator for an additional 2 years  
32 if he or she determines that the permit complies with the requirements of this  
33 chapter and any regulations adopted pursuant thereto.

34        3. The Administrator and the Division may hold public hearings jointly or  
35 separately to gather such evidence or information as they deem necessary for a  
36 full understanding of all the rights involved and to properly guard the public  
37 interest. The Administrator must notify the applicant in advance of any hearing  
38 held pursuant to this section.

39        4. A permit issued pursuant to this section must include any conditions  
40 deemed necessary by the Administrator.

41        5. The holder of any permit issued pursuant to this section must comply  
42 with the requirements of NRS 445A.300 to 445A.730, inclusive, and any  
43 regulations adopted pursuant thereto.

44        Sec. 18. 1. The appropriation procedures of chapters 533 and 534 of NRS  
45 do not apply to the reasonable loss of water of not more than 5 acre-feet during  
46 the testing and sampling of water pumped by a dissolved mineral resource  
47 exploration well or dissolved mineral resource exploration project which is  
48 subject to the terms of a permit issued pursuant to section 17 of this act.

49        2. Any water pumped in excess of 5 acre-feet by a dissolved mineral  
50 resource exploration well or within a dissolved mineral resource exploration  
51 project is subject to the appropriation procedures of chapters 533 and 534 of  
52 NRS. An operator of a dissolved mineral resource exploration well or dissolved  
53 mineral resource exploration project must ensure that the well or project is in

compliance with the requirements of chapters 533 and 534 of NRS before the well or project exceeds the threshold of 5-acre-feet.

Sec. 19. 1. The Commission on Mineral Resources shall, by regulation, establish a fee to be collected by the Division for examining and filing an application for a permit to drill a dissolved mineral exploration well or operate a dissolved mineral resource exploration project. The fee must not exceed \$1,500.

2. The money collected pursuant to this section:

(a) Must be deposited with the State Treasurer for credit to the Account for the Division of Minerals created in the State General Fund pursuant to 513.103.

(b) May be used only to administer the provisions of this chapter.

Sec. 20. The Commission on Mineral Resources:

1. Shall, in coordination with the Division of Water Resources of the State Department of Conservation and Natural Resources, adopt regulations to carry out a program for regulating the drilling and operation of dissolved mineral resource exploration wells, dissolved mineral resource exploration projects and dissolved mineral resource exploration boreholes; and

2. May adopt any other regulations necessary to carry out the provisions of this chapter.

Sec. 21. Any person who willfully violates any provision of this chapter or any regulation adopted thereto or an order of the Division issued pursuant to this chapter is subject to a penalty of not more than \$1,000 for each act or violation and for each day that the violation continues.

~~{Sec. 12.}~~ Sec. 22. This act becomes effective ~~{on July 1, 2017.}~~ .

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

2. On January 1, 2018, for all other purposes.