

---

---

ASSEMBLY BILL NO. 109—ASSEMBLYMEMBER LA RUE HATCH

PREFILED JANUARY 22, 2025

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to water. (BDR 48-212)

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

~

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

---

---

AN ACT relating to water; revising provisions governing the appropriation of water for geothermal wells or dissolved mineral resources; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that, with certain exceptions, the consumptive use of  
2 water brought to the surface outside of a geothermal well is subject to the  
3 procedures governing the appropriation of water, except for: (1) water removed  
4 from an aquifer or geothermal reservoir to develop and obtain geothermal resources  
5 if the water is returned to or reinjected into the same aquifer or reservoir; and (2)  
6 the reasonable loss of water under certain circumstances. (NRS 534A.040) **Section**  
7 **1** of this bill instead provides that any consumptive or nonconsumptive use of water  
8 brought to the surface to develop and obtain geothermal resources is subject to  
9 these procedures. **Section 1** also removes the exception for water removed from an  
10 aquifer or geothermal reservoir and instead creates an exception for water used for  
11 an exploratory well.

12 Existing law provides that, with certain exceptions, the owner of real property  
13 owns the rights to the underlying geothermal resources. (NRS 534A.050) **Section 2**  
14 of this bill clarifies that underground waters belong to the public and the use of  
15 such waters for the development of geothermal resources is subject to existing state  
16 laws governing the appropriation of water.

17 Existing law requires a person to obtain a permit from the Administrator of the  
18 Division of Minerals of the Commission on Mineral Resources and comply with  
19 the conditions of the permit before he or she may drill or operate a geothermal well  
20 or drill an exploratory well. (NRS 534A.060) **Sections 3 and 4** of this bill require a  
21 person to obtain a permit to appropriate water from the State Engineer before he or  
22 she may drill or operate such a well, if the well uses water that is subject to the  
23 procedures governing the appropriation of water.

24 Existing law provides that ownership of dissolved mineral resources is  
25 determined by the applicable federal and state laws and regulations. (NRS  
26 534B.010) **Section 5** of this bill clarifies that underground waters containing



27 dissolved mineral resources belong to the public and are subject to state laws  
28 governing the appropriation of water.

29 Existing law exempts from the procedures governing the appropriation of water  
30 the reasonable loss of water of not more than 5 acre-feet during the testing and  
31 sampling of water pumped within a dissolved mineral resource exploration project.  
32 (NRS 534B.110) Existing law also requires a person seeking to drill a dissolved  
33 mineral resource exploration well to obtain a permit from the Administrator. (NRS  
34 534B.080) **Section 6** of this bill requires that, upon receipt of an application for  
35 such a permit, the Administrator must transmit the application to the State Engineer  
36 for review. If the State Engineer determines that the application may interfere with  
37 existing rights or protectable interests in existing domestic wells or threaten the  
38 public interest, **section 6** requires the applicant to obtain a permit to appropriate  
39 water before he or she may proceed with the application. **Section 8** of this bill  
40 provides that this requirement is an exception to the exemption for the reasonable  
41 loss of water of not more than 5 acre-feet.

42 Existing law requires, with certain exceptions, the Administrator to approve or  
43 reject an application to drill a dissolved mineral resource exploration well within 30  
44 days after receiving the application. (NRS 534B.090) **Section 7** of this bill provides  
45 an exception from this requirement if the State Engineer requires the applicant to  
46 obtain a permit to appropriate water.

---

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

1 **Section 1.** NRS 534A.040 is hereby amended to read as  
2 follows:

3 534A.040 A consumptive *or nonconsumptive* use of water  
4 brought to the surface ~~[outside of a]~~ *to develop and obtain*  
5 geothermal ~~[well]~~ *resources* is subject to the appropriation  
6 procedures of chapters 533 and 534 of NRS, except for:

7 1. Water ~~[that is removed from an aquifer or geothermal~~  
8 ~~reservoir to develop and obtain geothermal resources if the water is~~  
9 ~~returned to or reinjected into the same aquifer or reservoir;]~~ *used in*  
10 *an exploratory well;* or

11 2. The reasonable loss of water:

12 (a) During a test of a geothermal well; or

13 (b) From the temporary failure of all or part of a system that  
14 removes water from an aquifer or geothermal reservoir, transfers the  
15 heat from that water and reinjects that water into the same aquifer or  
16 reservoir.

17 **Sec. 2.** NRS 534A.050 is hereby amended to read as follows:

18 534A.050 1. The owner of real property owns the rights to  
19 the underlying geothermal resources unless they have been reserved  
20 by or conveyed to another person.

21 2. *In accordance with NRS 533.025 and 534.020,*  
22 *underground waters belong to the public and the use of such*  
23 *underground waters for the development of geothermal resources*



1 *is subject to appropriation for beneficial use only under the laws*  
2 *of this State.*

3 **Sec. 3.** NRS 534A.060 is hereby amended to read as follows:

4 534A.060 1. A person may not drill or operate a geothermal  
5 well or drill an exploratory well without obtaining ~~it~~:

6 (a) A permit from the Administrator of the Division of Minerals  
7 of the Commission on Mineral Resources ; and

8 (b) *Except as otherwise provided in NRS 534A.040, a permit to*  
9 *appropriate water from the State Engineer in accordance with the*  
10 *requirements of chapters 533 and 534 of NRS,*

11 ~~and~~ complying with the conditions of ~~the~~ each permit.

12 2. An application *for a permit from the Administrator of the*  
13 *Division of Minerals required pursuant to paragraph (a) of*  
14 *subsection 1* must set forth such information as the Administrator  
15 requires by regulation.

16 **Sec. 4.** NRS 534A.070 is hereby amended to read as follows:

17 534A.070 1. The Administrator of the Division of Minerals  
18 of the Commission on Mineral Resources shall approve or reject an  
19 application for a permit to drill an exploratory well within 10 days  
20 after the Administrator receives the application in proper form. The  
21 permit must not be effective for more than 2 years, but may be  
22 extended by the Administrator.

23 2. Upon receipt of an application for a permit to drill or operate  
24 a geothermal well, the Administrator of the Division of Minerals  
25 shall transmit copies of the application to the State Engineer, the  
26 Administrator of the Division of Environmental Protection of the  
27 State Department of Conservation and Natural Resources, and  
28 the Director of the Department of Wildlife. After consultation with  
29 the State Engineer, the Administrator of the Division of  
30 Environmental Protection, and the Director of the Department of  
31 Wildlife, the Administrator of the Division of Minerals may issue a  
32 permit to drill or operate a geothermal well if ~~it~~:

33 (a) It is determined that issuance of a permit is consistent with:

34 ~~(a)~~ (1) The policies specified in NRS 445A.305 and  
35 445B.100;

36 ~~(b)~~ (2) The ~~purposes~~ requirements of chapters 533 and 534  
37 of NRS; and

38 ~~(c)~~ (3) The purposes specified in chapter 501 of NRS ~~it~~; and

39 (b) *Except as otherwise provided in NRS 534A.040, the State*  
40 *Engineer has issued a permit to appropriate water.*

41 3. The Administrator of the Division of Minerals shall approve  
42 or reject the application to drill or operate a geothermal well within  
43 90 days after the Administrator receives it in proper form, unless it  
44 is determined that a conflict exists pursuant to subsection 2 or a  
45 public hearing is necessary pursuant to subsection 4. Notice of the



1 conflict or need for a public hearing must be provided to the  
2 applicant within the 90-day period.

3 4. The State Engineer and the Administrator of the Division of  
4 Minerals may hold public hearings jointly or separately to gather  
5 such evidence or information as they deem necessary for a full  
6 understanding of all the rights involved and to guard properly the  
7 public interest.

8 5. A permit issued pursuant to this section must include any  
9 conditions:

10 (a) Deemed necessary by the Administrator of the Division of  
11 Minerals to carry out the purposes of this section; and

12 (b) Imposed by the State Engineer consistent with the provisions  
13 of chapters 533 and 534 of NRS.

14 **Sec. 5.** NRS 534B.010 is hereby amended to read as follows:

15 534B.010 1. The provisions of this chapter govern  
16 exploration for dissolved mineral resources.

17 2. Ownership of dissolved mineral resources is determined by  
18 the applicable federal and state laws or regulations. *In accordance  
19 with NRS 533.025 and 534.020, underground waters containing  
20 dissolved mineral resources belong to the public and are subject to  
21 appropriation for beneficial use only under the laws of this State.*

22 3. Except as expressly provided, nothing in this chapter shall  
23 be construed to abrogate the provisions of chapter 445A, 519A, 533,  
24 534 or 534A of NRS.

25 **Sec. 6.** NRS 534B.080 is hereby amended to read as follows:

26 534B.080 1. A person may not drill a dissolved mineral  
27 resource exploration well without first obtaining a permit from the  
28 Administrator and complying with the conditions of the permit.

29 2. To obtain a permit to drill a dissolved mineral resource  
30 exploration well, a person must submit an application for a permit to  
31 the Administrator in the form and containing such information as  
32 prescribed by the Administrator in accordance with regulations  
33 adopted pursuant to this chapter.

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

36 (a) The location, design and expected depth of the well;

37 (b) The materials of construction for the well;

38 (c) The status of the land on which the well will be constructed;

39 (d) A plan for monitoring the well and a plan for plugging and  
40 abandoning the well in accordance with any regulations adopted  
41 pursuant to this chapter;

42 (e) A plan for managing any fluids generated as part of testing  
43 or sampling, which must include, without limitation, a description of  
44 how the fluids will be managed in accordance with the requirements  
45 of chapter 445A of NRS and as required by the Division of



1 Environmental Protection of the State Department of Conservation  
2 and Natural Resources; and

3 (f) Any other reporting, information or analysis necessary to  
4 prevent the migration of fluids between aquifers and the degradation  
5 of the water quality in accordance with any regulations adopted  
6 pursuant to this chapter.

7 4. *Upon receipt of an application submitted pursuant to*  
8 *subsection 2, the Administrator shall transmit a copy of the*  
9 *application to the State Engineer for review. If the State Engineer*  
10 *determines that a dissolved mineral resource exploration well or a*  
11 *dissolved mineral resource exploration borehole may impact*  
12 *existing rights or protectable interests in existing domestic wells or*  
13 *prove detrimental to the public interest, the State Engineer shall*  
14 *require that the applicant obtain a permit to appropriate water in*  
15 *accordance with the requirements of chapters 533 and 534 of*  
16 *NRS.*

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

21 ~~5.1~~ 6. The issuance of a permit pursuant to NRS 534B.090  
22 does not authorize a person to produce dissolved mineral resources  
23 without a water right.

24 **Sec. 7.** NRS 534B.090 is hereby amended to read as follows:

25 534B.090 1. The Administrator shall approve or reject an  
26 application for a permit to drill a dissolved mineral resource  
27 exploration well within 30 days after the Administrator receives an  
28 application in proper form, unless ~~the~~:

29 (a) *The Administrator determines that the application conflicts*  
30 *with the requirements of NRS 445A.300 to 445A.730, inclusive,*  
31 *and any regulations adopted pursuant thereto, or any other laws and*  
32 *regulations administered by the Division of Environmental*  
33 *Protection of the State Department of Conservation and Natural*  
34 *Resources* ~~;~~ *or*

35 (b) *The State Engineer requires the applicant to obtain a*  
36 *permit to appropriate water pursuant to NRS 534B.080.*

37 2. A permit issued pursuant to this section must not be  
38 effective for more than 2 years, but may be extended one time by  
39 the Administrator for an additional 2 years if he or she determines  
40 that the permit complies with the requirements of this chapter and  
41 any regulations adopted pursuant thereto.

42 3. The Administrator and the State Engineer may hold public  
43 hearings jointly or separately to gather such evidence or information  
44 as they deem necessary for a full understanding of all the rights  
45 involved and to properly guard the public interest. The



1 Administrator *and the State Engineer, as applicable*, must notify  
2 the applicant ~~[, the State Engineer]~~ and the Administrator of the  
3 Division of Environmental Protection of the State Department of  
4 Conservation and Natural Resources in advance of any hearing held  
5 pursuant to this section.

6 4. A permit issued pursuant to this section must include any  
7 conditions and reporting requirements deemed necessary by the  
8 Administrator.

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

12 6. The Administrator shall post any permit which has been  
13 approved pursuant to this section on the Internet website of the  
14 Division of Minerals within 5 days after the permit has been  
15 approved.

16 **Sec. 8.** NRS 534B.110 is hereby amended to read as follows:

17 534B.110 1. ~~[The]~~ *Except as otherwise provided in NRS*  
18 *534B.080, the* appropriation procedures of chapters 533 and 534 of  
19 NRS do not apply to the reasonable loss of water of not more than 5  
20 acre-feet during the testing and sampling of water pumped within a  
21 dissolved mineral resource exploration project.

22 2. Any water pumped in excess of 5 acre-feet within a  
23 dissolved mineral resource exploration project is subject to the  
24 appropriation procedures of chapters 533 and 534 of NRS. An  
25 operator of a dissolved mineral resource exploration project must  
26 ensure that the project is in compliance with the appropriation  
27 requirements of chapters 533 and 534 of NRS before the project  
28 exceeds the threshold of 5-acre-feet.

29 3. As used in this section, "dissolved mineral resource  
30 exploration project" means a project, which may consist of one or  
31 more dissolved mineral resource exploration wells or boreholes or  
32 both, that is conducted on:

33 (a) Private land owned or controlled by a natural person or an  
34 exploration or mining company; or

35 (b) A mining claim on public land that is identified in an  
36 approved notice or plan required pursuant to 43 C.F.R §§ 3809.300  
37 to 3809.336, inclusive, or 3809.400 to 3809.434, inclusive.





