

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 18-0222.01 Thomas Morris x4218

SENATE BILL 18-041

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A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF OPERATORS OF SAND AND GRAVEL MINES**
102 **TO USE WATER INCIDENTAL TO SAND AND GRAVEL MINING**
103 **OPERATIONS TO MITIGATE THE IMPACTS OF MINING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Water Resources Review Committee. Current law requires operators of sand and gravel open mines that expose groundwater to the atmosphere to obtain a well permit and either: A replacement plan approved by the ground water commission for designated groundwater; or a plan for augmentation approved by the water court or a plan of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

substitute supply approved by the state engineer for tributary groundwater. The bill specifies that the replacement plan (in **section 1** of the bill) or the plan of substitute supply (in **section 2**) and the permit may authorize uses of water incidental to open mining for sand and gravel, including specifically (among other things) the mitigation of impacts from mining and dewatering.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 37-90-107, **amend**
3 (6)(a)(I) as follows:

4 **37-90-107. Application for use of groundwater - publication**
5 **of notice - conditional permit - hearing on objections - well permits.**

6 (6) (a) (I) ~~No~~ A person shall NOT, in connection with the extraction of
7 sand and gravel by open mining, as defined in section 34-32-103 (9),
8 ~~C.R.S.~~, expose designated groundwater to the atmosphere unless ~~said~~ THE
9 person has obtained a well permit from the ground water commission. If
10 an application for such a well permit cannot otherwise be granted
11 pursuant to this section, a well permit shall be issued upon approval by
12 the ground water commission of a replacement plan ~~which~~ THAT meets
13 the requirements of this ~~article~~ ARTICLE 90, pursuant to the guidelines or
14 rules ~~and regulations~~ adopted by the commission. THE WELL PERMIT AND
15 REPLACEMENT PLAN MAY AUTHORIZE USES OF WATER INCIDENTAL TO
16 OPEN MINING FOR SAND AND GRAVEL, INCLUDING PROCESSING AND
17 WASHING MINED MATERIALS; DUST SUPPRESSION; MINED LAND
18 RECLAMATION INCLUDING TEMPORARY IRRIGATION FOR REVEGETATION;
19 LINER OR SLURRY WALL CONSTRUCTION; PRODUCTION OF CONCRETE AND
20 OTHER AGGREGATE-BASED CONSTRUCTION MATERIALS; DEWATERING;
21 AND MITIGATION OF IMPACTS FROM MINING AND DEWATERING.

22 **SECTION 2.** In Colorado Revised Statutes, 37-90-137, **amend**

1 (11)(a)(I) as follows:

2 **37-90-137. Permits to construct wells outside designated**
3 **basins - fees - permit no groundwater right - evidence - time**
4 **limitation - well permits - rules.** (11) (a) (I) ~~No~~ A person shall NOT, in
5 connection with the extraction of sand and gravel by open mining as
6 defined in section 34-32-103 (9), ~~C.R.S.~~, expose groundwater to the
7 atmosphere unless ~~said~~ THE person has obtained a well permit from the
8 state engineer pursuant to this section. ~~A well permit shall be issued~~ THE
9 STATE ENGINEER SHALL ISSUE A WELL PERMIT upon approval by the water
10 court of a plan for augmentation or upon approval by the state engineer
11 of a plan of substitute supply; except that no increased replacement of
12 water shall be required by the water court or the state engineer whenever
13 the operator or owner of land being mined has, prior to January 15, 1989,
14 entered into and continually thereafter complied with a written agreement
15 with a water conservancy district or water users' association to replace or
16 augment the depletions in connection with or resulting from open mining
17 of sand and gravel. THE WELL PERMIT AND PLAN OF SUBSTITUTE SUPPLY
18 MAY AUTHORIZE USES OF WATER INCIDENTAL TO OPEN MINING FOR SAND
19 AND GRAVEL, INCLUDING PROCESSING AND WASHING MINED MATERIALS;
20 DUST SUPPRESSION; MINED LAND RECLAMATION INCLUDING TEMPORARY
21 IRRIGATION FOR REVEGETATION; LINER OR SLURRY WALL CONSTRUCTION;
22 PRODUCTION OF CONCRETE AND OTHER AGGREGATE-BASED
23 CONSTRUCTION MATERIALS; DEWATERING; AND MITIGATION OF IMPACTS
24 FROM MINING AND DEWATERING.

25 **SECTION 3. Act subject to petition - effective date -**
26 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
27 the expiration of the ninety-day period after final adjournment of the

1 general assembly (August 8, 2018, if adjournment sine die is on May 9,
2 2018); except that, if a referendum petition is filed pursuant to section 1
3 (3) of article V of the state constitution against this act or an item, section,
4 or part of this act within such period, then the act, item, section, or part
5 will not take effect unless approved by the people at the general election
6 to be held in November 2018 and, in such case, will take effect on the
7 date of the official declaration of the vote thereon by the governor.

8 (2) This act applies to conduct occurring on or after the applicable
9 effective date of this act.