

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 18-0222.01 Thomas Morris x4218

**SENATE BILL 18-041**

**SENATE SPONSORSHIP**

**Coram and Baumgardner**, Donovan, Jones, Sonnenberg

**HOUSE SPONSORSHIP**

**Saine and Arndt**, Esgar, Hansen, Willett

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**Senate Committees**

Agriculture, Natural Resources, & Energy

**House Committees**

Agriculture, Livestock, & Natural Resources

HOUSE  
3rd Reading Unamended  
February 16, 2018

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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.**

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HOUSE  
2nd Reading Unamended  
February 15, 2018

**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/>.)*

SENATE  
3rd Reading Unamended  
January 24, 2018

**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

SENATE  
Amended 2nd Reading  
January 23, 2018

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.

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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. 34-32.5-103 (15), expose designated groundwater to the  
9 atmosphere unless ~~said~~ THE person has obtained a well permit from the  
10 ground water commission. If an application for such a well permit cannot  
11 otherwise be granted pursuant to this section, a well permit shall be issued  
12 upon approval by the ground water commission of a replacement plan  
13 ~~which~~ THAT meets the requirements of this ~~article~~ ARTICLE 90, pursuant  
14 to the guidelines or rules ~~and regulations~~ adopted by the commission. THE  
15 WELL PERMIT AND REPLACEMENT PLAN MAY AUTHORIZE USES OF WATER  
16 INCIDENTAL TO OPEN MINING FOR SAND AND GRAVEL, INCLUDING  
17 PROCESSING AND WASHING MINED MATERIALS; DUST SUPPRESSION; MINED  
18 LAND RECLAMATION INCLUDING TEMPORARY IRRIGATION FOR  
19 REVEGETATION; LINER OR SLURRY WALL CONSTRUCTION; PRODUCTION OF  
20 CONCRETE AND OTHER AGGREGATE-BASED CONSTRUCTION MATERIALS;  
21 DEWATERING; AND MITIGATION OF IMPACTS FROM MINING AND  
22 DEWATERING.

1           **SECTION 2.** In Colorado Revised Statutes, 37-90-137, **amend**  
2 (11)(a)(I) as follows:

3           **37-90-137. Permits to construct wells outside designated**  
4 **basins - fees - permit no groundwater right - evidence - time**  
5 **limitation - well permits - rules.** (11) (a) (I) ~~No~~ A person shall NOT, in  
6 connection with the extraction of sand and gravel by open mining as  
7 defined in section ~~34-32-103 (9), C.R.S. 34-32.5-103 (15),~~ expose  
8 groundwater to the atmosphere unless ~~said~~ THE person has obtained a well  
9 permit from the state engineer pursuant to this section. ~~A well permit~~  
10 ~~shall be issued~~ THE STATE ENGINEER SHALL ISSUE A WELL PERMIT upon  
11 approval by the water court of a plan for augmentation or upon approval  
12 by the state engineer of a plan of substitute supply; except that no  
13 increased replacement of water shall be required by the water court or the  
14 state engineer whenever the operator or owner of land being mined has,  
15 prior to January 15, 1989, entered into and continually thereafter  
16 complied with a written agreement with a water conservancy district or  
17 water users' association to replace or augment the depletions in  
18 connection with or resulting from open mining of sand and gravel. THE  
19 WELL PERMIT AND PLAN OF SUBSTITUTE SUPPLY MAY AUTHORIZE USES OF  
20 WATER INCIDENTAL TO OPEN MINING FOR SAND AND GRAVEL, INCLUDING  
21 PROCESSING AND WASHING MINED MATERIALS; DUST SUPPRESSION; MINED  
22 LAND RECLAMATION INCLUDING TEMPORARY IRRIGATION FOR  
23 REVEGETATION; LINER OR SLURRY WALL CONSTRUCTION; PRODUCTION OF  
24 CONCRETE AND OTHER AGGREGATE-BASED CONSTRUCTION MATERIALS;  
25 DEWATERING; AND MITIGATION OF IMPACTS FROM MINING AND  
26 DEWATERING.

27           **SECTION 3. Act subject to petition - effective date -**

1     **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
2     the expiration of the ninety-day period after final adjournment of the  
3     general assembly (August 8, 2018, if adjournment sine die is on May 9,  
4     2018); except that, if a referendum petition is filed pursuant to section 1  
5     (3) of article V of the state constitution against this act or an item, section,  
6     or part of this act within such period, then the act, item, section, or part  
7     will not take effect unless approved by the people at the general election  
8     to be held in November 2018 and, in such case, will take effect on the  
9     date of the official declaration of the vote thereon by the governor.

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