

CHAPTER 9

WATER AND IRRIGATION

SENATE BILL 18-041

BY SENATOR(S) Coram and Baumgardner, Donovan, Jones, Sonnenberg, Cooke, Court, Crowder, Garcia, Gardner, Guzman, Holbert, Kagan, Kefalas, Lundberg, Marble, Martinez Humenik, Merrifield, Moreno, Neville T., Scott, Smallwood, Tate, Zenzinger, Grantham;
also REPRESENTATIVE(S) Saine and Arndt, Esgar, Hansen, Willett, Catlin, Covarrubias, Hooton, Liston, Rosenthal.

AN ACT

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

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

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

37-90-107. Application for use of groundwater - publication of notice - conditional permit - hearing on objections - well permits. (6) (a) (I) ~~No~~ A person shall NOT, in connection with the extraction of sand and gravel by open mining, as defined in section ~~34-32-103 (9), C.R.S. 34-32.5-103 (15),~~ expose designated groundwater to the atmosphere unless ~~said~~ THE person has obtained a well permit from the ground water commission. If an application for such a well permit cannot otherwise be granted pursuant to this section, a well permit shall be issued upon approval by the ground water commission of a replacement plan ~~which~~ THAT meets the requirements of this ~~article~~ ARTICLE 90, pursuant to the guidelines or rules ~~and regulations~~ adopted by the commission. THE WELL PERMIT AND REPLACEMENT PLAN MAY AUTHORIZE USES OF WATER INCIDENTAL TO OPEN MINING FOR SAND AND GRAVEL, INCLUDING PROCESSING AND WASHING MINED MATERIALS; DUST SUPPRESSION; MINED LAND RECLAMATION INCLUDING TEMPORARY IRRIGATION FOR REVEGETATION; LINER OR SLURRY WALL CONSTRUCTION; PRODUCTION OF CONCRETE AND OTHER AGGREGATE-BASED CONSTRUCTION MATERIALS; DEWATERING; AND MITIGATION OF IMPACTS FROM MINING AND DEWATERING.

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

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

37-90-137. Permits to construct wells outside designated basins - fees - permit no groundwater right - evidence - time limitation - well permits - rules.

(11) (a) (I) ~~No~~ A person shall NOT, in connection with the extraction of sand and gravel by open mining as defined in section ~~34-32-103(9)~~, C.R.S. 34-32.5-103(15), expose groundwater to the atmosphere unless ~~said~~ THE person has obtained a well permit from the state engineer pursuant to this section. ~~A well permit shall be issued~~ THE STATE ENGINEER SHALL ISSUE A WELL PERMIT upon approval by the water court of a plan for augmentation or upon approval by the state engineer of a plan of substitute supply; except that no increased replacement of water shall be required by the water court or the state engineer whenever the operator or owner of land being mined has, prior to January 15, 1989, entered into and continually thereafter complied with a written agreement with a water conservancy district or water users' association to replace or augment the depletions in connection with or resulting from open mining of sand and gravel. THE WELL PERMIT AND PLAN OF SUBSTITUTE SUPPLY MAY AUTHORIZE USES OF WATER INCIDENTAL TO OPEN MINING FOR SAND AND GRAVEL, INCLUDING PROCESSING AND WASHING MINED MATERIALS; DUST SUPPRESSION; MINED LAND RECLAMATION INCLUDING TEMPORARY IRRIGATION FOR REVEGETATION; LINER OR SLURRY WALL CONSTRUCTION; PRODUCTION OF CONCRETE AND OTHER AGGREGATE-BASED CONSTRUCTION MATERIALS; DEWATERING; AND MITIGATION OF IMPACTS FROM MINING AND DEWATERING.

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

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

Approved: March 1, 2018