

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-third Legislature - Second Regular Session

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES

Report of Regular Meeting  
Tuesday, January 9, 2018  
House Hearing Room 3 -- 2:00 P.M.

MINUTES RECEIVED  
CHIEF CLERK'S OFFICE

1-10-18

Convened 2:00 PM  
Recessed  
Reconvened  
Adjourned 4:11 PM

Members Present

Mr. Cook  
Mr. Descheenie  
Mrs. Gonzales  
Ms. Engel  
Mr. Leach  
Mr. Mosley  
Mrs. Udall  
Mrs. Barton, Vice-Chairman  
Mr. Bowers, Chairman

Members Absent

Agenda

Original Agenda – Attachment 1

Request to Speak

Report – Attachment 2

Committee Attendance


Report – Attachment 3

Presentations

<u>Name</u>	<u>Organization</u>	<u>Attachments (Handouts)</u>
Director Buschatzke	Arizona Department of Water Resources	7

Committee Action

<u>Bill</u>	<u>Action</u>	<u>Vote</u>	<u>Attachments</u>
HB2060	DP	8-0-0-1	4,5,6



Sharon Carpenter, Legislative Research Analyst  
January 10, 2018

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

REVISED - 01/05/18

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Convened: 2:00pm

Adjourned: 4:11 pm

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Fifty-third Legislature - Second Regular Session

REGULAR MEETING AGENDA

**COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES**

DATE Tuesday, January 9, 2018

ROOM HHR 3

TIME 2:00 P.M.

Members:

Mr. Cook  
Mr. Descheenie  
Ms. Engel

Mrs. Gonzales  
Mr. Leach  
Mr. Mosley

Mrs. Udall  
Mrs. Barton, Vice-Chairman  
Mr. Bowers, Chairman

1. Introduction of Staff
2. Presentation: Arizona Department of Water Resources

**Bills**

**Short Title**

**Strike Everything Title**

\*HB2060

DP aggregate mined land reclamation; variances  
(Bowers)

8-0-0-1

\* If first read and assigned

**ORDER OF BILLS TO BE SET BY THE CHAIRMAN**

sr  
1/3/18  
1/5/18

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032 or through Arizona Relay Service 7-1-1.

# Information Registered on the Request to Speak System

*House Energy, Environment and Natural Resources  
(1/9/2018)*

## **HB2060, aggregate mined land reclamation; variances**

### **Testified in support:**

Steve Trussell, AZ ROCK PRODUCTS ASSN; David Kimball, representing self

### **Testified as opposed:**

Sandy Bahr, Sierra Club - Grand Canyon Chapter

### **Support:**

Richard Bark, FREEPORT-MCMORAN INC.

### **Oppose:**

Michele Manos, representing self; Alisa McMahon, representing self; Michael Fiflis, representing self; SALLY CONNELLY, representing self; Constance Aglione, representing self; Karen Contos, representing self; Don Bentley, representing self

### **All Comments:**

Richard Bark, FREEPORT-MCMORAN INC.: This variance procedure exists for hard rock mining reclamation and it is a good idea for the aggregate land reclamation program.; Steve Trussell, AZ ROCK PRODUCTS ASSN: The Arizona Rock Products Association would appreciate thoughtful consideration of this legislation as unforeseen advancements, conditions or methodologies in mining reclamation practice may arise that could necessitate a variance request.; Michele Manos, Self: This is a dangerous waiver of public health and safety precautions. A giveaway to industry at the expense of the public's health. Legislators should work for the benefit of the people, not corporations. Irresponsible bill!; Alisa McMahon, Self: unnecessary and bad bill; far too broad; public safety is not the only consideration; protections must remain in place for public health and the environment; Michael Fiflis, Self: allows sand and gravel operations to harm public health and the environment; Karen Contos, Self: This bill will allow threats to public health and welfare or environmental harm. Regulations are designed to protect these exact issues.

**PLEASE COMPLETE THIS FORM FOR THE PUBLIC RECORD**



**HOUSE OF REPRESENTATIVES**

Please PRINT Clearly

Committee on EEHR Bill Number HB 2060  
Date 1.9.2018  Support  Oppose  Neutral  
Name Eric Mears Need to Speak?  Yes  No  
Representing Hodrick and Adreick Are you a registered lobbyist?   
Complete Address \_\_\_\_\_  
E-mail Address \_\_\_\_\_ Phone Number \_\_\_\_\_  
Comments: \_\_\_\_\_

**\*\*\*FIVE-MINUTE SPEAKING LIMIT\*\*\***

**ARIZONA STATE LEGISLATURE**  
Fifty-third Legislature - Second Regular Session

**COMMITTEE ATTENDANCE RECORD**

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES

CHAIRMAN: Russell Bowers VICE-CHAIRMAN: Brenda Barton

DATE	1/9/18	/18
CONVENED	2:00p m	m
RECESSED		
RECONVENED		
ADJOURNED	4:11pm	
MEMBERS		
Mr. Cook	✓	
Mr. Descheenie	✓	
Ms. Engel	✓	
Mrs. Gonzales	✓	
Mr. Leach	✓	
Mr. Mosley	✓	
Mrs. Udall	✓	
Mrs. Barton, Vice-Chairman	✓	
Mr. Bowers, Chairman	✓	

✓ Present      --- Absent      exc Excused



# ARIZONA HOUSE OF REPRESENTATIVES

## **HB 2060: aggregate mined land reclamation; variances**

**PRIME SPONSOR:** Representative Bowers, LD 25

**BILL STATUS:** Energy, Environment & Natural Resources

**Legend:**

Inspector – State Mine Inspector

Amendments – **BOLD** and ~~Stricken~~ (Committee)

### **Abstract**

Relating to reclamation plan variances for aggregate mining.

### **Provisions**

1. Expands the Inspector's authority to permit an owner or operator of an exploration operation or aggregate mining unit (e.g. sand and gravel operations) to vary from any adopted rule or reclamation plan requirement or condition if the variance:
  - a. will not endanger public safety; and
  - b. will not be inconsistent with the approval criteria. (Sec. 1)

### **Current Law**

The Inspector has the authority to allow variances from any adopted rule or reclamation plan requirement or condition for hard rock mining (e.g. gold, silver, copper, etc.) on the finding that the variance will not endanger public safety and will not be inconsistent with the approval criteria (A.R.S. § 27-931).

An owner or operator of an exploration operation or aggregate mining unit is prohibited from creating a surface disturbance of more than five contiguous acres until the reclamation plan and financial assurance mechanism are approved by the Inspector (A.R.S. § 27-1221). The Inspector is required to consider the technical and economic practicability of proposed reclamation measures in evaluating a reclamation plan for aggregate mining units including: 1) grazing and other agricultural land use objectives; 2) developed water resources, water management projects and existing underground water storage facilities; 3) fish or wildlife habitat; and 4) forestry (A.R.S. § 27-1273).

The Inspector is required to adopt rules for the reclamation of surface disturbances at exploration and aggregate mining units and for the administration of the aggregate mined land reclamation statutes (A.R.S. § 27-1204). A person may appeal the Inspector's action in accordance with the uniform administrative hearing procedures (A.R.S. § 27-1235).

*Aggregate* means cinders, crushed rock or stone, decomposed granite, gravel, pumice, pumicite and sand (A.R.S. § 27-441).

Prop 105 (45 votes)

Prop 108 (40 votes)

Emergency (40 votes)

Fiscal Note

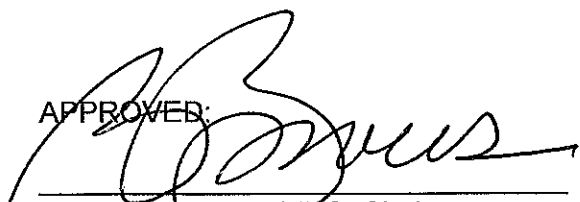
**ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-third Legislature - Second Regular Session**

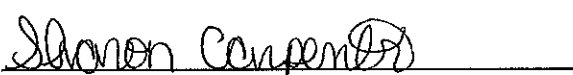
**ROLL CALL VOTE**

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES BILL NO. HB 2060

DATE January 9, 2018 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Cook		✓			
Mr. Descheenie	✓	✓			
Ms. Engel		✓			
Mrs. Gonzales					✓
Mr. Leach		✓			
Mr. Mosley		✓			
Mrs. Udall		✓			
Mrs. Barton, Vice-Chairman		✓			
Mr. Bowers, Chairman		✓			
		8	0	0	1

APPROVED:   
 \_\_\_\_\_  
 RUSSELL BOWERS, Chairman  
 BRENDA BARTON, Vice-Chairman

  
 \_\_\_\_\_  
 COMMITTEE SECRETARY

ATTACHMENT 5

## AGGREGATE MINED LAND RECLAMATION

### Examples of Need for Reclamation Variances

- **Making Nominal Changes to a Reclamation Approach or Post Mining Land Use:** Changes should be allowed without triggering a new reclamation plan as-long-as it achieves the necessary outcomes, is protective of public health, and addresses safety and stability as intended.
- **Technology & Innovation Updates:** Technology or methodologies that were not contemplated in current statutes.
  - ie: Software changes (i.e. cost estimating, volume calculations and mapping) take place faster than changes in statutes. A variance should be granted eliminating the need for a full technical review if software changes are the only changes in the Plan amendments as-long-as the assumptions and inputs into the software remain the same as the previously approved Plan.
- **Eminent Domain:** Condemnation can trigger a substantial change and fee to the operator. This would allow the Mine Inspector to approve a variance to waive the fee.
- **Changing Market Conditions:** Some mine sites are left abandoned. Land owners are willing to reclaim the lands, but do not have the resources to compile and submit a reclamation plan for approval (costs can be 5K-20K to compile a plan) a variance would allow the Mine Inspector to recommend various remedial reclamation measures to complete reclamation, but only require a closure report. This would decrease liability to the innocent land owner and tax payers while ensuring public safety. (all recommendations are approved via third party engineering firm)
- **Provisions:** Evaluation of reclamation provisions in reclamation plan can be outdated and do not make sense anymore.



i.e. Reclamation plan states berms must be removed, but flood control does not want the berms removed due to possible flooding of other private lands.


- **Reclamation Plan Transfers:** Previous operator is deceased, and current operator/land owner is unable to statutorily have the approved plan transferred to them. A variance would allow the plan to be transferred to the new operator or land owner.
- **Operator Access:** If the bond holder/tenant loses access to the property. The operator can't perform reclamation and the ASMI can waive the requirements. The property owner; however, would still be responsible for reclamation.

#### Other Examples:

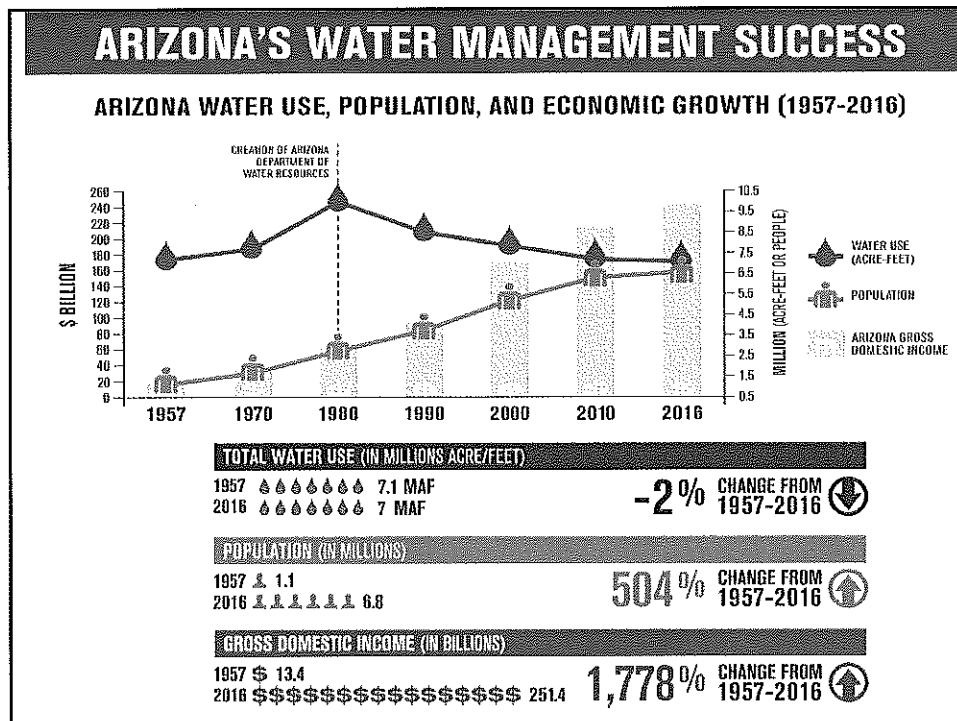
- **Borrow Pits:** Allowing remote pits in rural areas that perhaps are only infrequently used for highway projects to waive a reclamation bonding requirement. A small borrow pit that is not generating significant revenue. Having to carry a bond when the mine is inoperative would be tough for an independent small operator.
- **Inactive Pits:** Due to the cyclical nature of mining it makes sense to sometimes waive or delay a trigger for reclamation due to inactivity that would normally require the start of the closure process.
- **Special Circumstances:** Allowing sites in bankruptcy or receivership to apply for extensions on reclamation requirements in-order-to make portfolio changes to reclamation requirements.
- **Exploration:** Allowing expansion of exploratory drilling programs without having to stop and revise reclamation plans. This flexibility allows the operator to drill a few more holes without having to stop to revise plan.

## Update on Arizona Water Planning Issues

*Arizona House of Representatives  
Committee on Energy, Environment and Natural Resources*



**Tom Buschatzke**  
Director  
Arizona Department of Water Resources  
January 9, 2018



## Arizona's Water Resource Challenges

### Driving Forces

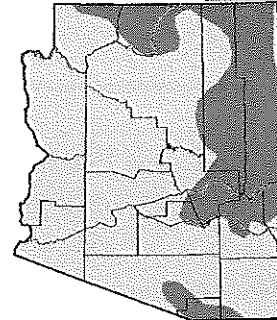
- Arizona has had a drought declaration in place since 1998
- Population & economic growth will increase demand for water

### Short-term Challenges

- Risks to Colorado River Supply
  - Shortage on the Colorado River System is likely
  - Recurring Lower Basin Annual Deficit

### Medium-term Challenges

- Water resources in rural areas of the state are more stressed
  - Primary water source is groundwater
  - Lack of groundwater regulation
  - Lack of groundwater data
  - Rural areas lack the resources to address their issues



As of 1/5/2018


### Long-term Challenges

- Growing statewide imbalance between existing water supplies and demand projected in the next 25 years and 50 years

## Water Solutions Conversation

In the Spring of 2017, the Governor's Office held a series of meetings with business and water leaders across the State

- Asked what water issues need attention
- Most of the responses focus on two areas:
  1. **Colorado River**
    - *Important that the State speak with "one voice" on water issues to fulfill the ADWR Director's statutory role representing the State on Colorado River Issues*
  2. **Groundwater**



## Governor's Water Discussions

- **Launched on June 15, 2017**
- **Plenary (Governor serves as chairman)**
  - 21 Members
  - Broad representation across entire state (business, agriculture, industry, cities, counties, irrigation districts, water providers, NGOs and legislative leaders)
- **Work Groups (Chief of Staff serves as chairman)**
  - Colorado River (28 members + support staff)
  - Groundwater (31 members + support staff)
- **Legislative leadership & staff involved in process**

## Meetings with Legislators

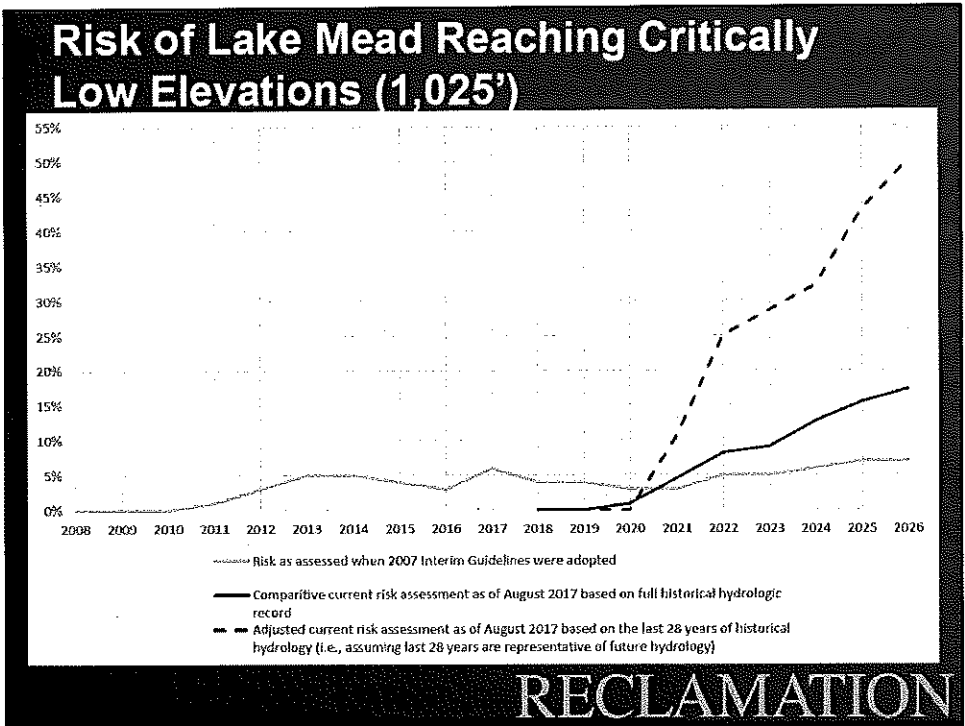
• Sylvia Allen	• Andrea Dalessandro	• Paul Mosley
• Brenda Barton	• Kirsten Engel	• Jill Norgaard
• Wenona Benally	• Diego Espinoza	• Becky Nutt
• Rusty Bowers	• Karen Fann	• Lisa Otondo
• Sean Bowie	• Rosanna Gabaldon	• Jemescita Peshlakai
• Kate Brophy McGee	• Travis Grantham	• Frank Pratt
• Judy Burges	• Gail Griffin	• Rebecca Rios
• Noel Campbell	• Drew John	• Don Shooter
• Regina Cobb	• Vince Leach	• T.J. Shope
• David Cook	• Darin Mitchell	• Michelle Udall

## Public Outreach Efforts

- Arizona Municipal Water Users Association
- Arizona Daily Star - Tony Davis (5 interviews)
- Southern Arizona Water Users Association
- Law & Policy Issues Unique to Arizona: CLE International
- Arizona Republic - Dustin Gardner
- Senator Jon Kyl
- East Valley Chamber of Commerce
- Arizona Capitol Times - Director's Op-ed
- Prescott AMA Groundwater Users Advisory Council
- Santa Cruz AMA Groundwater Users Advisory Council
- Westmarc Water Task Force
- Tucson AMA Groundwater Users Advisory Council
- County Supervisors Association of Arizona
- Arizona Water Banking Authority Commission Meeting
- Arizona Republic - Ryan Randazzo
- Phoenix AMA Groundwater Users Advisory Council
- Arizona Republic Editorial Board Briefing
- Arizona Capitol Times - Rachel Leingang (3 interviews)
- 2017 Cactus & Pine Water Summit
- Arizona Water Law: CLE International
- HBACA
- Robson Communities
- Ag/Cattlemen (Aja, Bray, Brown, Brophy, & Whetten)
- 2017 Environmental & Sustainability Summit, Arizona Manufacturers Council
- Pinal AMA Stakeholders
- AZ Water Association 90th Annual Conference
- Democratic Caucus

## Strengthening the State of Arizona as the "One Voice" on Colorado River matters

- Arizona's historical success hinged on speaking with "One Voice"
- Actions by CAWCD have brought this into question
- CAWCD is represented by a board elected by three counties, but decisions can affect all of Arizona



## Groundwater Issues

- All water use data outside of AMAs are little more than rough estimates
- Approximately half of State's registered groundwater capacity is located outside of AMAs
- Lack of groundwater pumping data makes it difficult to develop long-term solutions for rural communities
- Some rural areas are seeing rapid increase in groundwater pumping

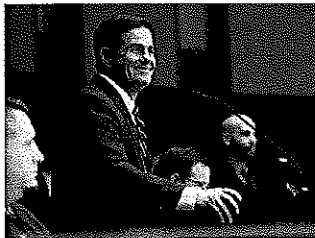
## Goals of Governor's Water Conversations

- ✓ Improve water management in the State
- ✓ Clarify role of the State vis a vis CAWCD
  - *Speak with one voice strengthening Arizona's interaction with Reclamation & other states*
  - *Actions with statewide implications are within the purview of the State*

“  
If there's one thing Arizona is the best in the nation at - it's water.

- Governor Doug Ducey

## Legislative Involvement



- Legislature must be involved
- Possible legislation this session

*“This session, we must ... ensure Arizona speaks with one-voice to secure the state's future for generations to come”*

- Governor Ducey  
January 8, 2018  
State of the State

# Questions?

**Thomas Buschatzke**  
**Director**

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Website: [www.azwater.gov](http://www.azwater.gov)

Twitter: [@azwater](https://twitter.com/azwater)



**PROTECTING**  
**ARIZONA'S WATER SUPPLIES**  
*for ITS NEXT CENTURY*