

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

<http://www.water.state.co.us>



Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

Hal D. Simpson, P.E.
State Engineer

April 5, 2007

Larry McCarty
7967 S. Pontiac Way
Englewood, CO 80112

Subject: Request for Information on Permit Nos. 47100-F, 9548-F and 9478-F

Dear Mr. McCarty:

THIS LETTER CONCERNS YOUR WATER RIGHT! This office is currently reviewing permit files in preparation for the issuance of final permits in the KIOWA-BIJOU Designated Ground Water Basin in Colorado. The status of your well permits mentioned above is not clear. Before any final permitting can be done, these issues need to be clarified.

Well Permit No. 47100-F was issued on August 27, 1996, for the construction and operation of a well (gravel pit) in accordance with a replacement plan approved by the Commission on August 22, 1996. To date, there has been no evidence of construction or beneficial use submitted to this office.

Well Permit Nos. 9548-F and 9478-F are irrigation well permits, issued by the State Engineer's Office in May 1965. As a condition of the issuance of Well Permit No. 47100-F, these two wells were to discontinue use as irrigation wells once construction of the gravel pit was completed.

If the gravel pit has been constructed, Well Permit No. 9478-F should have been abandoned, possibly capped and sealed, and Well Permit No. 9548-F converted to a monitoring well. The final permit would be issued to Well Permit No. 47100-F. If the pit has not been constructed, a letter to this office asking for cancellation of the Findings and Orders as well as Permit No. 47100-F should be submitted in order to issue final permits to Permit Nos. 9548-F and 9478-F.

Please submit evidence of construction and beneficial use of Permit No. 47100-F or a letter of cancellation within 30 (thirty) days of the receipt of this letter.

If you need additional assistance please contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Melissa A. Peterson". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Melissa A. Peterson, P.E.
Water Resources Engineer
Designated Basins Branch

Enclosures

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources

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May 10, 2007



Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

Hal D. Simpson, P.E.
State Engineer

Memorandum

TO: Melissa Peterson/Permit Files: 9478-F, 9548-F, and 47100-F

FROM: Chris Grimes

SUBJECT: Field Inspection for wells with Permit Nos. 9478-F, 9548-F, and 47100-F

On May 9, 2007, at the request of Melissa Peterson, I performed a field inspection for the wells with Permit Nos. 9478-F, 9548-F, and the gravel pit/pond with Permit No. 47100-F. Mr. McCarty, the owner of the wells in question, was not present during the time of inspection. I did speak with him over the phone on May 8, 2007, at which time he indicated that one of the wells has been abandoned and plowed over in his field, while the other well's pump has not been pulled, and the well can still be used. He mentioned that he would like to change the use of this well into Domestic/Stock use.

Using a GPS unit, I identified a well in Section 2, 7S, 59W of the 6th P.M (1265ft from the North section line and 2000ft from the West section line). This location corresponds with the location identified on the Statement of Beneficial for the well with Permit No. 9548-F. The well was not active at the time of inspection. There was no evidence of irrigation: crop, sprinklers, irrigation pipe, etc.. nor was there evidence indicating that the pump has been pulled. There are some stock tanks near the well, and it is possible the well has been used to fill these tanks.

I was unable to identify the well with Permit No. 9478-F. Again, Mr. McCarty stated that one of the wells has been plowed over in his field. I searched the well location as stated on the SBU submitted in 1996, but I found no evidence of a well.

I did not find a gravel pit in the NE1/4 of the NW1/4 of Section 2, 7S, 59W as permitted under 47100-F. I did find two ponds separated by a thirty foot berm in the NW1/4 of the NW1/4 of said Section 2. (see attached map) I walked the perimeter of each pond and marked their areas with a GPS unit. ArcMap indicates that the surface area of the larger pond is 2.4 acres, the smaller pond's surface acreage is 1.6. This pond was constructed sometime after 1994, because the aerial photo we have on file shows no evidence of a pond in that location in that year. (see attached) It's likely this is the pond constructed under well Permit No. 47100-F, but with a surface area of 4 acres, it's currently larger than the 2.85 acres allowed by the permit.

Chris Grimes
Water Commissioner/Des. Basins

NW $\frac{1}{4}$ of Section 2 ~~2~~ (1994 aerial)

↑
N



-there were no ponds in 1994 - (CBG) 5-10-2007

NW¹/₄ of Section 2, 7s, 59w (2005 aerial)



(CBG) 5-10-2007

**UTM Coordinates for waypoints around the perimeter of the pond located in
Section 2, 7S, 59W of the 6th P.M.:**

Easting: 588640
Northing: 4369751

Easting: 588654
Northing: 4369787

Easting: 588617
Northing: 4369833

Easting: 588587
Northing: 4369858

Easting: 588510
Northing: 4369788

Easting: 588480
Northing: 4369741

Easting: 588483
Northing: 4369716

Easting: 588540
Northing: 4369672

Easting: 588584
Northing: 4369710

CBG - 5/10/07



**COLORADO DIVISION OF MINERALS AND GEOLOGY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567**

The Division of Minerals and Geology has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance of the mining operation with the permit and the regulations of the Mined Land Reclamation Board. The report notes 1) Areas of successful compliance; 2) Problems and suggested corrective actions and/or 3) Possible violations to be considered for possible enforcement action by the Mined Land Reclamation Board. OPERATORS SHOULD READ THIS REPORT CAREFULLY BECAUSE IT MAY REQUIRE CORRECTIVE ACTION AND/OR RESPONSES TO THE DIVISION IN ORDER TO AVOID CONSIDERATION OF POSSIBLE ENFORCEMENT ACTION BY THE MINED LAND RECLAMATION BOARD.

MINE NAME: McCarty Pit OPERATOR: Central Sand and Gravel.
 COUNTY: Elbert MINERAL: SDG TYPE OF OPERATION: Surf 111
 INSPECTOR(S): James C. Stevens *James C Stevens*
 MINE ID # OR PROSPECTING ID #: M-96-011
 INSPECTION DATE: 10/1/99 DATE OF COMPLAINT NA
 INSPECTOR'S INITIALS JCS TIME OF DAY (MILITARY) 14:00
 INSPECTION TYPE CODE⁽¹⁾ MI POST INSP. CONTACTS⁽²⁾ NO
 JOINT INSP. AGENCY CODE⁽²⁾ NO REASON FOR INSP. CODE⁽³⁾ IE
 WEATHER CODE⁽⁴⁾ CR OP. REP. PRESENT: Carl Roberts and Larry McCarty (Landowner)

1. INSPECTION TYPE CODE - [CL-IN: IL=Illegal Operation, MI=Monitoring, MP=Mineral Prospect, SI=Surety-related, PR=Pre-operation]
2. POST INSPECTION CONTACTS AND JOINT INSPECTION AGENCY CODE - [CL-AG: NO=None, BL=BLM, CH=Colo. Dept. Health; CL=Land Board, CT=Citizen; CW=Wildlife, FS=Forest Service, HW=Hwy. Dept., LG=Local Government, SE=State Engr.]
3. REASON FOR INSPECTION CODE - [CL-RS: AG=Other Agency Request, CT=Citizen Complaint, IE=Normal I&E Program, HP=High Priority, PY=Priority]
4. WEATHER CODE - [CL-WE: CL=Cloudy, CR=Clear, IN=Inclement - prevented inspection, RN=Raining, SN=Snowing, WD=Windy]

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. IF PB OR PV IS INDICATED, YOU SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF YOUR PERMIT AND APPLICABLE RULES AND REGULATIONS. If PV is indicated, you will be notified under separate cover when the Mined Land Reclamation Board will consider possible enforcement action.

GENERAL INSPECTION TOPICS

(AR) RECORDS PB (FN) FINANCIAL WARRANTY Y (RD) ROADS Y
 (HB) HYDROLOGIC BALANCE PB (BG) BACKFILL & GRADING Y (EX) EXPLOSIVES NA
 (PW) PROCESSING WASTE/TAILINGS .. NA (SF) PROCESSING FACILITIES NA (TS) TOPSOIL Y
 (MP) GENL MINE PLAN COMPLIANCE .. Y (FW) FISH & WILDLIFE Y (RV) REVEGETATION Y
 (SM) SIGNS AND MARKERS N (SP) STORM WATER MGT PLAN N (SB) COMPLETE INSP N
 (ES) OVERBURDEN/DEV. WASTE NA (SC) EROSION/SEDIMENTATION NA (RS) RECL PLAN/COMP PB
 (AT) ACID OR TOXIC MATERIALS NA (OD) OFF-SITE DAMAGE NA (ST) STIPULATIONS NA

Y=Inspected and Found in Compliance PV= nspected and Possible Violations Noted PB=Inspected and Problems Noted
 N = Not Inspected NA = Not Applicable

MINE ID # OR PROSPECTING ID # M-96-011
INSPECTION DATE_ 10/1/99

INSPECTOR'S INITIALS

KS

OBSERVATIONS

This inspection was conducted primarily to monitor compliance of the operation with the requirements of State Statutes, Rules and the conditions of the permit. The site was inactive at the time of the inspection. Mr. Carl Roberts represented the operator during the inspection; the landowner, Mr. Larry McCarty was also present.

The site has been reclaimed. Markers for the corners of the permit area were identified.

There is a small permanent pond with **exposed groundwater** now occupying the pit area. Such a pond is approved as part of the reclamation plan for the site. The permit application, however, indicates that approval of an augmentation plan was to be sought in regard to the exposure of groundwater in this pond, but there is no evidence of the approval of such in the permit file. This is a compliance problem that will be included on Page 4 of this report.

At the request of the landowner, a narrow land bridge has been installed across the pond. This does not affect the post-mining use intended for the pond. The visible margins of the pond are properly sloped; although in some areas a low wave cut bench can be seen just above the current level of water in the pond. This appears to be the result of recent flooding of the site and a higher water level in the pond. There is a berm now constructed around the pond for purposes of protecting it from future flooding by the nearby Bijou Creek during storm events.

As a reported result of the recent flooding, limited areas south of the pond lost a degree of vegetative cover. Those areas have now been reseeded. Vegetation is well developed in the pond and along the margins. Other portions of the disturbed permit area, some seeded as recently as this year, have begun to show development of desired vegetation. Annual weeds are much in evidence in these areas but the landowner indicated his intention to mow these areas to enhance the growth of the more desirable vegetation and his confidence that ample desirable vegetative cover would subsequently develop. The landowner stated that he is quite satisfied with the operator's reclamation efforts, i.e. the condition of the site and the degree of vegetative development, and would not object to the operator being released from his reclamation responsibility. The landowner also indicated his understanding that if the operator were so released, the Division would be unable to compel the operator to do anything more in the way of reclaiming the site.

Although this inspection was not originally scheduled as a response to a request by the operator for release of reclamation bond and responsibility, it may serve that purpose. The operator has indicated his intention to make such a request in the near future. In light of the condition of the site, i.e. grading, topsoiling and vegetative cover, together with the landowner's expressed satisfaction with the results of the operator's reclamation efforts, the Division will consider approval of such a request.

MINE ID # OR PROSPECTING ID # 91-26-011
INSPECTION DATE_ 10/1/99

INSPECTOR'S INITIALS
VCS

The following problems (PB) and/or possible violations (PV) (and suggested corrective actions) were identified during this inspection. The problems should be corrected by the dates given, or they will become possible violations. The possible violations should be corrected by the dates given to reduce their severity when considered by the Mined Land Reclamation Board. The inspector noted on the previous page should be notified of all corrective actions taken.

PROBLEMS/POSSIBLE VIOLATIONS
AND
CORRECTIVE ACTIONS

Groundwater is exposed by the permanent pond that now occupies the area excavated by the mining operation. The approved permit application indicates that the necessary augmentation of the groundwater exposed in the pit will be provided by the owner of the property. There is no indication in the permit file that approval of such an augmentation plan was ever secured.

CORRECTION
DATE
Prior to Division approval of any release request

PV OR PB: PB

In order for the Division to approve any request by the operator for release of reclamation bond and responsibility, the Division must have written evidence from the Division of Water Resources, Office of the State Engineer that the SEO is in agreement with such release.

TOPIC: RS,AR,HB

MINE ID # OR PROSPECTING ID # M-96-011
INSPECTION DATE_ 10/1/99

INSPECTOR'S INITIALS
VCS

As per agreement with the Division of Water Resources, Office of the State Engineer(SEO), since the Division may well approve the release of the operator's bond and responsibility for this site, the Division will copy the SEO with the release inspection report and proposed decision since there are issues identified at the site that the Division believes may be of interest to the SEO.

cc:Mr. Larry P. McCarty
7967 South Pontiac Way
Englewood, CO 80112

I & E Contact Address

NAME:Mr. Carl Roberts _____
OPERATOR: Lyman-Richey Corp. dba Central S&G _____
STREET: P.O. Box 964 _____
CITY/STATE/ZIP: Columbus, CO 68601 _____

- CE
- BL
- FS
- HW
- HMWMD (CH)
- SE
- WQCD (CH)
- OTHER

CERTIFIED MAIL NO. 2 192 124520
RETURN RECEIPT REQUESTED

MEMORANDUM

TO: Suzanne Sellers, Team Leader Final Permits, Keith Vander Horst, Chief of Designated Basins

FROM: Melissa A. Peterson, P.E. *M.A.P.*

DATE: May 24, 2007

RE: Larry McCarty Well Permit Nos. 9478-F, 9548-F and 47100-F

Well Permit No. 47100-F was issued on August 27, 1996, for the construction and operation of a well (gravel pit) in accordance with a replacement plan approved by the Commission on August 22, 1996.

Well Permit Nos. 9548-F and 9478-F are irrigation well permits, issued by the State Engineer's Office in May 1965. As a condition of the issuance of Well Permit No. 47100-F, these two wells were to discontinue use as irrigation wells once construction of the gravel pit was completed. One (Permit No. 9548-F) was to be maintained as a water level monitoring well. The other could possibly be used for a small capacity well if re-permitted.

In order to issue a Final Permit for any of the wells listed above, the conditions had to be determined which wells were active and which were not. There was no evidence of the pit construction in the permit file for 47100-F. One of the conditions of the permit was that the "as-built" drawings for the pit, including depth and static water level, be submitted to this office. This was not done.

Mr. McCarty was sent an SBU request letter on April 5, 2007. He said that the gravel pit had been constructed, and that "someone" from the Greeley office had approved use of his remaining well for livestock watering use. Correspondence with Greeley determined that that was not the case. The Division of Minerals and Geology archives had a rough sketch of the basic layout of the intended pit, but no excavation drawings.

Chris Grimes performed a field inspection on May 9, 2007. His inspection report is attached.

Mr. McCarty is in violation of his permit for several reasons, which will be listed below. In addition, several of the assumptions made in the evaluation of the appropriation were not valid. There are also several questions concerning the water rights associated with these permits.

Questions:

1. Since there is no historic beneficial use information for Well Permit No. 9478-F (which has since been plowed under) do we cancel the permit?
2. Since these wells were to be used as the augmentation water for the pit, does the water right transfer to the pit? Then should the water rights to both irrigation wells be cancelled?
3. Since it is the present-day use that violates the permit conditions, should some sort of action be taken?
4. What should the SBU on the pit reflect?

Permit Violations

1. Mr. McCarty still has a large capacity pump in the well.
2. The surface area of the pond exceeds the permitted area.
3. No water level measurements have been submitted and no well has been designated as a monitoring well.
4. No "as-built" drawings have been submitted.
5. The cottonwood trees, whose removal accounted for 6.59 acre-feet of augmentation water, do not appear to have been removed in 1996 as stated, upon comparison of the 1994 and the 2005 aerials.
6. It appears Mr. McCarty may be using the remaining well for filling stock tanks since the pump is still installed and the stock tanks are nearby.

Please provide some guidance on these issues for me.

STATE OF COLORADO

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Division of Water Resources
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Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

Hal D. Simpson, P.E.
State Engineer

May 29, 2007

Larry McCarty
7967 S. Pontiac Way
Englewood, CO 80112

CERTIFIED MAIL RECEIPT NUMBER 7002 2410 0001 3899 3575

Subject: FINAL REQUEST for a Statement of Beneficial Use and "As-Built" construction drawings for Permit No. 47100-F

Dear Mr. McCarty:

THIS LETTER CONCERNS YOUR WATER RIGHT! Failure to respond could result in loss of use of your well. This office is currently reviewing permit files in preparation for the issuance of final permits in the KIOWA-BIJOU Designated Ground Water Basin in Colorado. There is no acceptable Statement of Beneficial Use in the file for your well (pond), Permit No. 47100-F, located in the NE1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West of the 6th P.M.

You must complete the enclosed blank Statement of Beneficial Use form, and submit "as built" construction drawings for this pond to retain your permit. The Statement of Beneficial Use may be filled out according to the instructions below.

Please print your name, mailing address and phone number at the top of the form, along with the well permit number.

WELL LOCATION: Complete each space. Blanks show where data is unknown. The distances from section lines on file for this well are ____ feet from the ____ section line and ____ feet from the ____ section line in the SW 1/4 of the SW 1/4 of Section 34, Township 3 South, Range 63 West of the 6th P.M.

USE OF WELL: Complete the section for the use of the well. Our records indicate that the intended use of this well was evaporation and the water removed with the sand and gravel mined from the site.

FIRST USE DATE: The date on which the water from this well was first used should be filled in completely and as accurately as possible.

PUMPING RATE: This section is not applicable.

ANNUAL APPROPRIATION: Our records show that this pond may not exceed 3.88 acre-feet appropriation annually. The surface area of the pond is limited to 2.85 acres.

LAND IRRIGATED: This section is not applicable to this permit.

DRILLER AND PUMP INSTALLER: The information on the well driller and pump installer is not required. Insert the letters "NA" to designate that this is not applicable.

METERING: The information on the metering is not required. Insert the letters "NA" to designate that this is not applicable.

SIGNATURE: Print and sign your name.

The Commission must receive a complete Statement of Beneficial Use for your well permit and As Built construction drawings within thirty (30) days of your receipt of this letter pursuant to Section 37-90-108(4) of Colorado Revised Statutes. A Statement of Beneficial Use form is enclosed. Failure to return this form within thirty (30) days of the day you receive this letter will result in Permit No. 47100-F being permanently expired.

If you need additional assistance please contact this office.

Sincerely,



Melissa A. Peterson, P.E.
Water Resources Engineer
Designated Basins Branch

Enclosures

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <i>Larry McCarty</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to: <i>Larry McCarty 7967 S. Pontiac Way Englewood CO 80112</i> <i>Return Receipt</i>	B. Received by (Printed Name) <i>Larry McCarty</i> C. Date of Delivery <i>6-7</i> D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:
2. Article Number (Transfer from service label)	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
PS Form 3811, February 2004	7002 2410 0001 3899 3575 Domestic Return Receipt 102595-02-M-1540

MEMORANDUM

TO: Chris Grimes, Water Commissioner Designated Basins
FROM: Melissa A. Peterson, P.E., Designated Basins Branch *M.A.P.*
SUBJECT: Enforcement Action: Well Permit No. 47100-F; Larry McCarty
DATE: June 4, 2007
CC: Keith Vander Horst, P.E., Chief of Designated Basins

The well (pond) owner of the Well Permit No. 47100-F has been found in violation of his permit conditions, including the conditions of the replacement plan. I have written to Mr. McCarty requesting an SBU and "as built" construction drawings, but the remaining violations need follow-up.

Permit Violations

1. The surface area of the pond (4.0 acres) exceeds the permitted area (2.85 acres).
2. The pit was constructed in the W1/2 of the NE1/4; over 300 feet from the permitted location.
3. No water level measurements have been submitted.
4. Mr. McCarty still has a large capacity pump in the structure for Well Permit No. 9548-F. It appears that he may be using the remaining well for filling stock tanks.

Without the as built drawings, we have no idea of how deep the ponds are, and how much groundwater is being exposed.

Contact: Mr. Larry McCarty
7967 S. Pontiac Wy
Englewood, CO 80112

303-773-1967

Site address: NE1/4 of the NW1/4 of Section 2
Township 7 South, Range 59 West

Enclosures: permit file

MOSES, WITTEMYER, HARRISON AND WOODRUFF, P.C.

RECEIVED

JUN 22 2007

WATER RESOURCES
STATE ENGINEER
COLO.

LAW OFFICES

DAVID L. HARRISON
JAMES R. MONTGOMERY
TIMOTHY J. BEATON
VERONICA A. SPERLING

1002 WALNUT STREET, SUITE 300
BOULDER, COLORADO 80302

TELEPHONE: (303) 443-8782
FAX: (303) 443-8796

CHARLES N. WOODRUFF
(1941-1996)

COUNSEL
RAPHAEL J. MOSES
JOHN WITTEMYER

RICHARD J. MEHREN
MARJORIE L. SANI
PATRICIA M. DECHRISTOPHER
DAVID L. OLSON II

ADDRESS CORRESPONDENCE TO:
P. O. BOX 1440
BOULDER, CO 80306-1440

June 21, 2007

Melissa A. Peterson, P.E.
Water Resources Engineer
Designated Basins Branch
Division of Water Resources
1313 Sherman Street, Room 818
Denver, CO 80203

Re: Well Permit No. 47100-F (Larry and Mary McCarty)

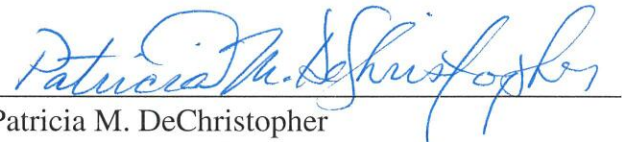
Dear Melissa:

This letter is confirmation of our telephone conversation earlier today regarding Permit No. 47100-F, granted to Larry and Mary McCarty. As we discussed, you agreed to extend the deadline for the McCartys to file a statement of beneficial use and as-built construction drawings for Permit No. 47100-F for one month, until July 30, 2007. If there is any misunderstanding regarding this matter, please contact me immediately.

Thank you for your cooperation in this matter.

Sincerely,

MOSES, WITTEMYER, HARRISON AND
WOODRUFF, P.C.

By 
Patricia M. DeChristopher

PMD/jt

cc: Larry and Mary McCarty

STATE OF COLORADO

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<http://www.water.state.co.us>

Larry McCarty
7967 S Pontiac Way
Englewood, CO 80112

October 18, 2007



Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

(Vacant)
State Engineer

Certified Mail Receipt No.

Re: Wells with Permit Nos. 47100-F (Gravel Pit/Pond), 9478-F, and 9548-F

Dear Mrs. McCarty,

On May 9, 2007, as required as part of our final permit evaluation, a field inspection was performed for the wells with Permit Nos. 47100-F, 9478-F, and 9548-F. This inspection revealed the following:

-Two ponds/gravel pits, separated by a berm, were identified and located in the SW1/4 of the NW1/4 of section 2, Township 7 South, Range 59 West of the 6th P.M. The combined surface area of these ponds was determined to be 4 acres. We believe these ponds/gravel pits were constructed under well permit no. 47100-F. **Please be advised that Permit No. 47100-F, permitted on August 27, 1996 for the construction and operation of a gravel pit in accordance with the Ground Water Commission replacement plan dated August 22, 1996, was permitted for a gravel pit surface area not to exceed 2.85 acres. Furthermore, this gravel pit was permitted to be located in the NE1/4 of the NW1/4 of said section 2.**

-The well with Permit No. 9548-F was identified in Section 2, T7S, R59W. The well did not appear to be active, and there were no signs of irrigation. However, it was difficult to determine if the pump had been pulled from the well, and there were stock tanks near the well that were full. **Please be advised that as a condition of the change of use and replacement plan issued on August 22, 2007, the wells with permit nos. 9478-F and 9548-F were required to have their "pumps removed to render them incapable of withdrawing water, or totalizing flow meters must be installed."** Furthermore, the well with Permit No. 9548-F is required to be *"maintained as a monitoring well, and the depth to water from the ground surface shall be measured and recorded on an annual basis between January 1st and March 31st of each year. The measurements must be submitted each year to the Commission within two weeks of the date the measurements were observed."*

October 18, 2007

page 2

At this time our office believes that the gravel pit constructed under well permit no. 47100-F has been constructed in violation of the permit. You must immediately back-fill the ponds so that the combined surface area is no greater than 2.85 acres, and you must submit the enclosed *Application for a Change of Permit location of a Well* to change the location of the pond to the SW1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West. Please also provide us with an "as built" construction drawing of the gravel pit/pond on 8-1/2" X 11" paper. This drawing does not need to be too complicated or detailed. Please show an overhead drawing of the gravel pit and its dimensions, and a cross section sketch of the pit showing the depth and the initial static water level. (The initial static water level is the depth of the water in the pond before gravel was first removed). Also indicate the pond's legal location in section, township, and range, and sign and date the sketch. You can do this drawing yourself, but please do not submit the sketch until after you have backfilled the pond to its permitted surface area of 2.85 acres. We will need to set up a second field inspection to verify that the gravel pit's size has been reduced.

As for the well with Permit No. 9548-F; if the well is being used to fill stock tanks, you must immediately cease such use. If the pump from the well has been removed, or you have installed a totalizing flow meter, please submit a signed statement indicating such. If the pump has not been removed or a flow meter installed, you must immediately do so. Again, please be advised that this well may not be used for any purposes other than ground water monitoring, and it is your responsibility to ensure that measurements from the well with permit no. 9548-F are recorded and maintained on an annual basis between the months of January and March.

Please respond to this letter within thirty days (November 18) so that we may discuss these matters further. If we have not heard from you within that thirty day period, further legal action may be taken, and you could be subject to a cease and desist order and fines in amounts of up to \$500/day for each day you continue to operate in violation.

For your records, I have enclosed a copy of well permit no. 47100-F and the replacement plan and change of use Order dated August 22, 1996. Please pay close attention to conditions 1-8 of the Order. If you should have any additional questions please contact me at this office.

Sincerely,



Chris Grimes

Water Commissioner/Engineering Tech.

cc: Patricia M. DeChristopher

Grimes, Chris

From: Michael J. Hall [mjh@edcon.com]
Sent: Tuesday, December 11, 2007 1:42 PM
To: Grimes, Chris
Subject: Agate Ponds



PosnPntL.csv (26
KB)

Chris

Attached are the GPS points acquired by Mike Hall and Larry McCarty in November. The points were acquired continuously while walking around the ponds and periodically moving down to the waters edge. We walked each pond separately. Please call or email me if you have any questions. If you reply to my email the my SPAM blocker wont grab your email. Thanks,

Mike Hall

/-/-/-/-/-/-/-/-/-/
Michael J. Hall
EDCON-PRJ, Inc.
171 S. Van Gordon St.
Suite E
Lakewood, CO 80228-1703

To avoid my spam blocker, please include the following in your reply:
/-/-/-/-/-/-/-/-/-/

voice 303-980-6556
fax 303-989-3480
e-mail mjh@edcon-prj.com
Web www.edcon-prj.com

*The attachment to this email appears
to be lost. MJH 9-14-2021*

Grimes, Chris

From: Mike Hall [mjh@edcon-prj.com]
Sent: Friday, August 01, 2008 4:38 PM
To: Grimes, Chris
Subject: Wells with permits 47100-F , 9478-F, 9548-F

Mr. Chris Grimes

We communicated by email earlier this year concerning the area of the ponds on our ranch near Agate CO. I sent you some information on surveying data we acquired trying to determine the approximate area of the ponds. I have not heard from you if the matter is settled or if we need to re-examine the issue. If the area is still considered to be too large according to your surveying data, we need to resolve the issue to your satisfaction. We would like to arrange to meet with you at the Agate location and determine exactly how much dirt we need to move to be in compliance with the permits. Please let me know when you would be available to go to Agate and we would meet you there and stake the ground where the ponds need back filling. I am a partner with Larry McCarty at this ranch. Thank you for your attention and I hope to hear from you soon

Regards,

Mike Hall

Michael J. Hall
EDCON-PRJ, Inc.
171 S. Van Gordon St.
Suite E
Lakewood, CO 80228-1703
voice 303-980-6556
fax 303-989-3480
e-mail mjh@edcon-prj.com
Web www.edcon-prj.com

STATE OF COLORADO

GROUND WATER COMMISSION

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589



John W. Hickenlooper
Governor
Mike King
Executive Director, DNR
Dick Wolfe, P.E.
Executive Director

April 19, 2011

L & M RANCH, LLC
7967 S PONTIAC WY
ENGLEWOOD, CO 80112

RE: Well Permit No.: 47100-F (pond)
Permitted Location: NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, Township 7 South, Range 59
West, 6th P.M.

THIS LETTER CONCERNS YOUR WATER RIGHT! FAILURE TO RESPOND COULD RESULT IN LOSS OF YOUR WATER RIGHT AND LOSS OF USE OF THE WELL. Read the entire letter.

Dear Well Owner:

This office is currently reviewing permit files in preparation for the issuance of final permits in the Kiowa-Bijou Designated Ground Water Basin in Colorado. Our records show you are the owner of the well. If you are not, or are no longer, the owner of this well please provide this office with the name and address of the current owner to avoid further correspondence from this office and to assist the current owner with providing the required documents.

Our records show that there is no acceptable Statement of Beneficial Use in the file for your well, Permit No. 47100-F, a pond intercepting ground water with a permitted location as given above.

Colorado Statute requires an acceptable Statement of Beneficial Use to be submitted documenting that first use of this well occurred by August 27, 1999 (within 3 years of the date the well permit was issued.). We are seeking to obtain the information through voluntary cooperation at this time. Failing your voluntary cooperation, we will be required to seek the information pursuant to Section 37-90-108(4) of Colorado Revised Statutes. Under this statute you may be required to pay a \$30.00 late filing fee, and failure to respond to notice sent by certified mail will result in expiration of the permit, loss of your water right, and orders to cease use of and to plug the well.

Please reply by May 19, 2011.

Even if you were not the owner at the time of first use, but now own the well, you are responsible for providing the required missing forms. We recommend you obtain the ~~information and submit the enclosed Statement as accurately as you can. You may do this by~~ contacting the original owner to obtain the required information, if possible, or by conducting an independent investigation.

Enclosed is a blank Statement of Beneficial Use form for your use. Insert the permit number in block 1, print your name, mailing address, and phone number in block 2, and fill out the remainder following the instructions on the back and noting the following.

- 3) Give the actual well location, completing each space. The distances from section lines are not shown in the permit file. Please determine these distances using the nearest section lines, or provide the GPS coordinates.
- 4) State the type of use of the well. The permitted use is as a pond exposing ground water.
- 5) The date on which the water from this well was first used for the permitted uses should be filled in as completely and as accurately as can be determined. The permit file shows that the construction of the well was completed in 1996.
- 6) No pumping is permitted from this well (pond).
- 7) The permitted annual diversion is 3.88 acre-feet per year.
- 8) No irrigation is permitted.
- 9) The information on the well driller and pump installer is not required. Please insert the letters "NA" to designate that this is not applicable.
- 10) According to your permit, a meter is not required.

Print and sign your name, and date your signature.

Forms that are incomplete may not be acceptable, may result in loss of part or all of your water right, and/or may result in any water right that is granted being based on the records and evidence available as determined by Commission Staff.

If you are the owner of this well and desire to cancel or abandon any water right that may be attached to the well a Well Owner's Statement and Request to Cancel a Well Permit should be submitted (form no. DBB-018 is available from our website). If the well no longer exists, or you wish to plug the well, a Well Abandonment Report (form no. GWS-09 available from our website) will also have to be submitted documenting that the well has been plugged.

If you need additional assistance please contact me at this office.

Sincerely,



Ivan Franco
Water Resources Engineer
Ivan.Franco@state.co.us
(303)866-3581 ext. 8243

Enclosures

Div. 8

Form No. **STATE OF COLORADO**
 GWS-10 **GROUND WATER COMMISSION**
 08/2010 **DIVISION OF WATER RESOURCES**
 818 Centennial Bldg., 1313 Sherman St., Denver, CO 80203
 (303) 866-3581 Fax (303) 866-3589 www.water.state.co.us

For Office Use Only

WATER RESOURCES
STATE ENGINEER
COLO

MAY 18 2011

REC'D

0396141

(Review the instructions for completing this Statement on the reverse of the form.)

STATEMENT OF BENEFICIAL USE
 (For wells located within a Designed Ground Water Basin.)

1. Insert the Well Permit Number: 47100-F

2. Name, address and phone number of the well owner:
 NAME(S): L & M Ranch, LLC
 Mailing Address: 7967 S. Pontiac Way
 City, State, Zip: Centennial, CO 80112
 Phone: (303)773-1967

3. WELL LOCATION: County Elbert Owner's Well Designation _____

NE1/4 of the NW1/4, Section 2, Township 7 North or South, Range 59 West of the Sixth P.M.
 Distance from Section Lines: 577 feet from North or South, 2008 feet from East or West, section lines.

4. The well is being used for the following purpose(s): Pond exposing ground water resulting from gravel mining.

5. Water from the well was first beneficially used, under this permit for the above-described purpose(s), on the following date: August 27, 1996

6. The pumping rate claimed is N/A gallons per minute.

7. The maximum annual amount of water diverted by the well for the above-described purpose(s) is 3.88 acre-feet.

8. The land irrigated by water from this well is N/A acres, described as:
 number

Other wells commingled with this well to irrigate common acreage: N/A

Commingling began on _____ (date), and the land irrigated by all the commingled wells totals _____ acres described as:

9. Well constructed by: N/A License No. _____
 Pump installed by: N/A License No. _____

10. Meter Mfg. by: N/A Serial No. _____ Date Installed _____

I (we) claim and say that I (we) am (are) the owner(s) of the well described above, know the contents of the statements made herein, and state that they are true to my (our) knowledge.

Please print the signer's name & title:	Signature(s) of the well owner(s):	Date:
<u>Larry P McCarty Mgr</u>	<u>Larry P McCarty</u>	<u>5-18-11</u>

For Office Use Only

State Engineer _____ By _____ Date _____



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

John Hickenlooper
GovernorMike King
Executive DirectorDick Wolfe, P.E.
Director/State Engineer

January 13, 2012

L&M Ranch, LLC
c/o Larry McCarty
7967 S. Pontiac Way
Centennial, CO 80112

RE: Potential Well Permit Violations Involving Well Permit Nos. 9548-F and 47100-F

In addition to the Final Permit matters requiring your attention and discussed in Ivan Franco's letter, our office would like to work with you to resolve some well permit violations we suspect to be occurring. These potential violations were previously addressed in a letter sent to you October 18, 2007, but for reasons on our end they have never been followed up on properly. Please see the violations and synopses below:

Issue/Violation #1: The well with Permit no. 9548-F is no longer permitted to withdrawal groundwater. As stated in the replacement plan and change of use authorization dated August 22, 1996 (see enclosed Findings and Order), upon initiation of the change of use, the well with Permit no. 9548-F was required to have its pump removed, rendering the well incapable of withdrawing water. Furthermore, the well was to be converted into a monitoring well, and the depth to water from ground surface measured and recorded on an annual basis between January 1st and March 31st of each year. These measurements were to be submitted to our office within two weeks of the date the measurements were observed. At this time, our office does not have confirmation that the pump has been removed from the well with Permit No. 9548-F (as requested in our October 2007 letter), nor have we ever received any water level measurements from the well. Please provide us with a signed statement verifying that the pump has been removed from well, and provide us with your most recent water level measurement(s). If you have not recorded any water level measurements, please begin to do so immediately, and provide us with three (3) measurements between January 1st and March 31st of this year, and every year thereafter.

sec 2 *** Issue/Violation #2: Our office is of the belief that the gravel pit constructed under well Permit no. 47100-F has been constructed in violation of the permit, specifically in terms of its size. A field inspection performed in March of 2007 verified the existence of two ponds (separated by a berm) located in the SW1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West of the 6th PM. The combined surface area of these two ponds was determined to be approximately four (4) acres. **Please be advised, the total surface area of the ground water pond is limited to 2.85 acres.** Please immediately backfill the ponds so that the combined surface area is no greater than 2.85 acres.

Please respond to this letter within 20 days of its receipt so that we might discuss these matter further. If we have not heard from you by that time and the violations continue, we may proceed with additional legal action that could include cease and desist orders which carry fines of up to \$500 for each day the orders are violated. If you have any additional questions, please contact me at this office.

Sincerely,

Chris Grimes

Water Commissioner Designated Basins.

Office of the State Engineer

1313 Sherman Street, Suite 818 • Denver, CO 80203 • Phone: 303-866-3581 • Fax: 303-866-3589
www.water.state.co.us

STATE OF COLORADO

GROUND WATER COMMISSION

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589



John W. Hickenlooper
Governor

Mike King
Executive Director, DNR

Dick Wolfe, P.E.
Executive Director

January 13, 2012

L&M Ranch, LLC
c/o Larry McCarty
7967 S. Pontiac Way
Centennial, CO 80112

RE: Well Permit No.: 47100-F
Permitted Location: NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, Township 7 South, Range 59
West, 6th P.M.

**THIS LETTER CONCERNS YOUR WATER RIGHT! FAILURE TO RESPOND COULD
AFFECT YOUR WATER RIGHT AND THE USE OF YOUR WELL.**

Dear Well Owner:

This office is continuing to review permit files in preparation for the issuance of final permits in the Kiowa-Bijou Designated Ground Water Basin in Colorado. Our records show you are the owner of the well. If you are no longer the owner of this well please provide this office with the name and address of the current owner to avoid further correspondence from this office and to assist the current owner with providing the requested information.

The above referenced Permit was issued on August 27, 1996, for the construction and operation of a well (gravel pit) in accordance with a replacement plan approved by the Colorado Ground Water Commission on August 22, 1996. This office has been in contact with you for the past several years addressing issues surrounding final permitting and permit compliance. This letter will address the status of the final permit for this well, and the wells associated with the replacement plan, and any additional information that may still be required for our evaluation.

As previously stated, the permit files for the above referenced well and those wells involved in the associated replacement plan (Permit Nos.: 9548-F & 9478), are being reviewed with the intent of issuing final permits. Permit no. 47100-F is for a gravel pit that exposes groundwater. Permit Nos. 9548-F and 9478-F are former irrigation wells; these two wells were to discontinue use upon completion of the gravel pit. The well with Permit no. 9548-F should now be converted to a monitoring well and the well with Permit no. 9478-F should not be in operation. Currently, this office has ordered the publication, in the Ranchland News on January 5 and 12, 2012, of the two wells involved in the replacement plan. This office intends to grant a final permit to the well with Permit no. 9548-F and cancel Permit no. 9478-F and order its abandonment. The conditional permit for the gravel pit shall remain in force and effect and no final permit shall be issued by the Commission.

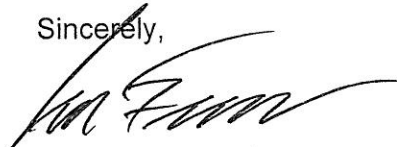
However, additional information is required for conditional permit no 47100-F (gravel pit). This office has, in pervious correspondence, requested as-built drawings of the gravel pit as evidence of well completion. In response to these requests construction plans were provided to this office. These plans do not constitute a construction report, and as-built drawings are required. Please provide as-built drawings of the gravel pit on 8-1/2" x 11" paper containing plan & profile views and depth to water table. These plans can be produced by hand if you wish.

Furthermore, upon review it has been determined that the well with Permit no. 47100-F (gravel pit) has been constructed outside of the permitted location. The permitted location is stated at the top of the first page, and the actual historic field location of the well is in the NW1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West. In order to correct this discrepancy please apply for an application for Change of Permit Location of a Well (DBB-12(b), attached).

The wells with Permit nos. 9548-F and 47100-F are currently under investigation for suspected well permit violations. These violations are addressed in the second letter enclosed from Water Commissioner Chris Grimes. Please read his letter closely because it could affect your water right and the continued use of your wells.

If you have any questions or need additional assistance please contact me at this office.

Sincerely,



Ivan Franco, E.I.T.
Water Resources Engineer
Ivan.Franco@state.co.us
(303) 866-3581 ext. 8243

Enclosures



COLORADO

Division of Water Resources

Department of Natural Resources

Ground Water Commission
1313 Sherman Street, Room 821
Denver, CO 80203

October 8, 2015

L&M Ranch, LLC
c/o Larry McCarty
7967 S. Pontiac Way
Centennial, CO 80112

Certified Mail Receipt: 7004 0550 0001 0704 8665

RE: Potential Well Permit Violations Involving Well Permit Nos. **9548-F and 47100-F**

In a letter dated January 13, 2012 our office requested that you address potential violations associated with the wells with permit nos. 9548-F and 47100-F. To date, those matters have been unresolved. At this time, our office requires that you immediately take actions to address the following violations.

Well with Permit No. 9548-F:

The well with permit no. 9548-F is believed to be operating in violation of its approved replacement plan. As stated in the replacement plan and change of use authorization dated August 22, 1996 (see enclosed Findings and Order), upon initiation of the change of use, the well with Permit no. 9548-F was required to have its pump removed, rendering the well incapable of withdrawing water. Furthermore, the well is to be used as a monitoring well and the depth to water from ground surface must be measured and recorded on an annual basis between January 1st and March 31st of each year. These measurements are to be submitted to our office within two weeks of the date the measurements are observed. At this time, our office does not have confirmation that the pump has been removed from the well with Permit No. 9548-F, nor have we ever received any water level measurements from the well. In addition, it is believed this well is currently being operated for livestock purposes. Please be advised, pumping water from the well, in any capacity, would be in violation of the well permit.

Within 20 days of receipt of this letter, please provide us documentation (signed statement or invoice) verifying that the pump has been removed from the well. In addition, please provide us with your most recent water level measurement(s). If you have not recorded any water level measurements, please begin to do so immediately and provide us with three (3) measurements between January 1st and March 31st of this year and every year thereafter.

(Ponds) Well With Permit No. 47100-F

The gravel pit constructed under well permit no. 47100-F has been constructed in violation of the permit, specifically, the pond is larger than currently permitted. A field inspection performed in March of 2007 verified the existence of two ponds (separated by a berm) located in the NW1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West of the 6th PM. The combined surface area of these two ponds was determined to be approximately four (4) acres.



Please be advised, the total surface area of the ground water pond is limited to 2.85 acres. **Within 20 days of receipt of this letter, please develop a plan to reduce the area of exposed groundwater so that the combined surface area of the pond(s) is no greater than 2.85 acres in total. Please provide us with documentation describing how you plan to resolve this issue, including cross section drawings of the excavations, the maximum depth of pits, and maximum water level upon completion. This may require hiring a consulting engineer to help you determine how and to what extent the ponds need to be modified.**

Please respond to this letter within 20 days of its receipt, by signing and returning the enclosed Well Permit Compliance Notice and additional documentation requested. If we have not heard from you by that time and you have not taken steps to correct the violations, we may proceed with additional legal action that could include cease and desist orders which carry fines of up to \$500 for each day the orders are violated. If you have any additional questions, please contact me at this office.

Sincerely,

Chris Grimes
 Designated Basin Groundwater Commissioner

CC: Keith Vander Horst, GWC team leader
 Rick Nielsen, GWC staff

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> <i>m. mcCarty</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: L + M Ranch LLC c/o Larry McCarty 7907 S. Pontiac Way Centennial, CO 80112	B. Received by (Printed Name) <i>m. mcCarty</i>	C. Date of Delivery <i>10/23/15</i>
2. Article Number (Transfer from service label)	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No <div style="text-align: center;"> <p>RECEIVED</p> <p>OCT 26 2015</p> <p>WATER RESOURCES STATE ENGINEER COLO</p> </div>	
PS Form 3811, February 2004	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7004 0550 0001 0704 8665		
Domestic Return Receipt		102595-02-M-1540



COLORADO
 Division of Water
 Department of Natural Resources

Ground Water Control
 1313 Sherman Street
 Denver, CO 80202

Hi Chris,
 Here is the signed document
 you need for your sites. It
 still needs a note attached
 saying that the pump has been
 pulled & the well covered over.
 Thanks so, all your help on this.

Mary McCarty - 303-773-1967
 Larry McCarty 303-888-4078

October 8, 2015

RECEIVED

NOV 17 2015

WATER RESOURCES
 STATE ENGINEER
 COLO

WELL PERMIT COMPLIANCE STATEMENT

With this notice I (print name), Larry P McCarty, I agree to take actions to address violations described in a letter from the Division of Water Resources dated October 8, 2015:

(initial) LPM

Regarding the well with permit no. 9458-F, I agree to only use the well with permit no. 9548-F as a monitoring well as permitted and described in the well's replacement plan and change of use authorization dated August 22, 1996, and I will remove the pump from the well so that it can no longer withdrawal water.

(initial) LPM

Regarding gravel pit/ponds constructed under well permit no. 47100-F, I agree to reduce the area of the exposed groundwater so that the combined surface area of the ponds is no greater than 2.85 acre in total.

I understand that, should I fail to take appropriate action to address the violations, and the wells are verified in the field to be operating in violation of its Final Permit, I could be subject to further legal action from the Division of Water Resources which may include cease and desist orders that carry fines of up to \$500/day.

Owner's Signature: Larry P McCarty Date: 10-19-15





COLORADO

Division of Water Resources

Department of Natural Resources

Ground Water Commission
1313 Sherman Street, Room 821
Denver, CO 80203

MEMORANDUM

Date: December 18, 2015
From: Chris Grimes *CBG*
To: 9548-FP, 9478-FP, and 47100-FP
Subject: Administrative Meter Requirements

As a result of recent Final Permit evaluations involving the wells with permit nos. 9548-FP, 9748-FP, and 47100-FP, an enforcement letter was sent to Larry and Mary McCarty on October 8, 2015 to address suspected violations of the wells.

On October 20, 2015, Mary McCarty called me to dispute the violations, claiming the surface area of the pond (issued under well permit no. 47100-FP) was now under the permitted 2.85 acres, and the well with permit no. 9548-FP was not in use, nor had it been in years, and was now "covered over" in the field. In a follow-up call, Larry McCarty indicated that the well with permit no. 9748-FP was also no longer in use.

On October 28, 2015, staff field investigated the wells to verify the McCarty's statements. This investigation revealed that the pond permitted under well permit no. 47100-FP now has a surface area of a little over one acres -- well under the 2.85 surface acres allowed. I could not find any evidence indicating the wells with permit 9548-FP or 9748-FP were in use.



STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

<http://www.water.state.co.us>

May 10, 2007



Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

Hal D. Simpson, P.E.
State Engineer

Memorandum

TO: Melissa Peterson/Permit Files: 9478-F, 9548-F, and 47100-F

FROM: Chris Grimes

SUBJECT: Field Inspection for wells with Permit Nos. 9478-F, 9548-F, and 47100-F

On May 9, 2007, at the request of Melissa Peterson, I performed a field inspection for the wells with Permit Nos. 9478-F, 9548-F, and the gravel pit/pond with Permit No. 47100-F. Mr. McCarty, the owner of the wells in question, was not present during the time of inspection. I did speak with him over the phone on May 8, 2007, at which time he indicated that one of the wells has been abandoned and plowed over in his field, while the other well's pump has not been pulled, and the well can still be used. He mentioned that he would like to change the use of this well into Domestic/Stock use.

Using a GPS unit, I identified a well in Section 2, 7S, 59W of the 6th P.M (1265ft from the North section line and 2000ft from the West section line). This location corresponds with the location identified on the Statement of Beneficial for the well with Permit No. 9548-F. The well was not active at the time of inspection. There was no evidence of irrigation: crop, sprinklers, irrigation pipe, etc.. nor was there evidence indicating that the pump has been pulled. There are some stock tanks near the well, and it is possible the well has been used to fill these tanks.

I was unable to identify the well with Permit No. 9478-F. Again, Mr. McCarty stated that one of the wells has been plowed over in his field. I searched the well location as stated on the SBU submitted in 1996, but I found no evidence of a well.

I did not find a gravel pit in the NE1/4 of the NW1/4 of Section 2, 7S, 59W as permitted under 47100-F. I did find two ponds separated by a thirty foot berm in the NW1/4 of the NW1/4 of said Section 2. (see attached map) I walked the perimeter of each pond and marked their areas with a GPS unit. ArcMap indicates that the surface area of the larger pond is 2.4 acres, the smaller pond's surface acreage is 1.6. This pond was constructed sometime after 1994, because the aerial photo we have on file shows no evidence of a pond in that location in that year. (see attached) It's likely this is the pond constructed under well Permit No. 47100-F, but with a surface area of 4 acres, it's currently larger than the 2.85 acres allowed by the permit.

Chris Grimes
Water Commissioner/Des. Basins

NW $\frac{1}{4}$ of Section 2 ~~2~~ (1994 aerial)

↑
N



-there were no ponds in 1994 - (CBG) 5-10-2007

NW¹/₄ of Section 2, 7s, 59w (2005 aerial)



(CBG) 5-10-2007

UTM Coordinates for waypoints around the perimeter of the pond located in Section 2, 7S, 59W of the 6th P.M.:

Easting: 588640
Northing: 4369751

Easting: 588654
Northing: 4369787

Easting: 588617
Northing: 4369833

Easting: 588587
Northing: 4369858

Easting: 588510
Northing: 4369788

Easting: 588480
Northing: 4369741

Easting: 588483
Northing: 4369716

Easting: 588540
Northing: 4369672

Easting: 588584
Northing: 4369710

CBG - 5/10/07

Gravel Pit/Pond - 47100-FP
Section 2, Township 7 South, 59 West
2013 aerial photo (12/18/15 memo)

9478-F
Permitted Loc.

9548-F
Permitted Loc.

Water only on southeast side of berm
running through the center of the feature.
Pond Surface area 1.17 acres.





December 5, 2019

CERTIFIED MAIL NO. 7019 2280 0001 8901 8419

L&M Ranch, LLC
c/o Larry McCarty
7967 S Pontiac Way
Centennial Co 80112

Re: Well Permit No. 47100-F (gravel pit/pond), Located in the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M.

Mr. McCarty:

I apologize for the delay in getting back with you after your communications with Mr. Chris Grimes of this office, your file has only recently been located.

Permit no. 47100-F is approved for a location in the NE1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West. Field inspections by Mr. Grimes and others have found the pond to be located in the SW1/4 of the NW1/4 of said Section 2.

Mr. McCarty, the well (gravel pit/pond) constructed under permit no. 47100-F was not constructed in accordance with the permit conditions of approval and is therefore an illegal structure.

You may amend this situation by completing and submitting the enclosed application for a well permit. The application must be accompanied by a \$100.00 filing fee and should be accompanied by an as built drawings of the pond. If you do not want to proceed with permitting the structure you will need to back fill the pond and send in a report that the structure was abandoned.

Contact me at this office with your questions and concerns.


Richard A Nielsen, P.E.
Water Resource Engineer



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

L & M Ranch LLC
 40 Larry McCarly X
 7967 S Pentiac Way
 Centennial CO 80112



9590 9402 5548 9249 3456 35

2. Article Number (Transfer from service label)

7019 2280 0001 8901 8417

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Larry P McCarly* Agent Addressee

B. Received by (Printed Name)

Larry McCarly

C. Date of Delivery

12/7/19

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

RECEIVED
 DEC 10 2019

WAL...
 STA...
 COLO

3. Service Type

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March 11, 2020

L & M Ranch LLC
7967 S Pontiac Way
Centennial CO 80112

Re: Application, Receipt No. 3696986, Reapplication for Expired Permit No. 47100-F, Located in the SW1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M.

Ms. Davies:

The referenced application has been reviewed. I am returning the application to you for correction and/or additional information.

The latitude and longitude provided with the application locate the ponds 816 feet (south pond) and 1105 feet (north) from the actual location. Using aerial photography, I have located the center of the ponds to be located approximately at UTM coordinates of 588573 Easting and 4369777 Northing (meters Zone 13, NAD-83), in the NW ¼ of the NW ¼ of Section 2, Township 7 South, range 59 West of the 6th Principal Meridian.

Please verify the location of the pond and amend item no. 4 accordingly.

Additionally, review of the file shows that the replacement plan was approved for the gravel pit to be located in the E1/2 of the NW1/4 of said Section 2. Because the gravel pit was constructed in the NW1/4 of the NW1/4, the replacement plan must be amended.

Please complete the enclosed Form GWS-69, Application for a Replacement Plan. This application should be accompanied by a letter clarifying that you want to amend an existing replacement plan. This letter should identify the verified location of the pond by the UTM coordinates and the location as being in the W1/2 of the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M.

This letter should also indicate the maximum extent of the surface of the open water, not to exceed 2.85 acres.

By statute, the application to amend the replacement plan must be published for two (2) consecutive weeks in a local newspaper to be followed by a thirty (30) day objection period. The applicant is required to pay for the publication.

Because this office must re-look at the replacement plan, pursuant to Rule 5.2, we also need to consider wells that may be located less than one-half mile from pond. A search of our records indicate that there are three (3) well permits located less than one-half mile from the pond; permit no. 552-RFP, 8847-FP and permit no. 8848-FP. These wells are located in Section 35, Township 6 South, Range 59 West and the owner of record is Kevin and Sandra Turecek. Please have them complete one of the enclosed Waiver of Claim to Injury forms for each well to your application, receipt no. 3696986.




Recipient L & M Ranch LLC
Date March 11, 2020

Page 2 of 2

Further, as both of your well permits, permit nos. 9548-FP and 9478-FP are technically still of record, you need to complete one of the waiver forms for each well to your application.

Contact me at this office with your questions and concerns.


Richard A Nielsen, P.E.
Water Resource Engineer

STATE OF
COLORADO

Nielsen - DNR, Rick <rick.nielsen@state.co.us>

Re: Application Receipt No. 3696986

1 message

Nielsen - DNR, Rick <rick.nielsen@state.co.us>
To: Deborah Davies <deborah.jeanne.davies@gmail.com>

Wed, Aug 26, 2020 at 1:51 PM

Ms. Davies,

I apologize for taking so long to get back with you.

Thank you for your efforts in completing the forms. I have just a few comments.

In item no. 8 of the General Purpose Water Well Permit Application. In the large box please write NW1/ of NW1/4 of Section 2, Township 7 South, Range 59 West.

Just under that box, in Box 8-A, please insert 2.85 acres. In Box 8-B please identify the owner of the land on which the ponds are located.

Once the waivers of injury are signed, you may submit the entire file to dwrpermitsonline@state.co.us. Once the office receives the file, you will receive an email regarding the procedures for paying the \$100.00 fee. Using the online submittal process, you will be able to use your credit card. If you want you can mail the file in to the address at the top of the form and include a money order for the \$100.00 filing fee. Our office has changed processing systems and no longer accepts checks.

Please contact me with any questions or concerns.

Rick

On Fri, Aug 14, 2020 at 12:45 PM Deborah Davies <deborah.jeanne.davies@gmail.com> wrote:

Mr. Nielsen,

Attached is a letter requesting that the replacement plan for well permit #47100-F be amended to show the actual constructed location. It was constructed in the NW 1/4 of the NW 1/4 of said Section 2.

We will send you the waiver once it is signed.

I can mail a check for the application fee.

Please let me know if you need any additional information.

Thank you,
Debbie Davies
Manager
L & M Ranch
303-981-0482

On Mon, Jun 1, 2020 at 3:25 PM Nielsen - DNR, Rick <rick.nielsen@state.co.us> wrote:

Ms. Davies,

I have reviewed the material that you have provided. I am returning the applications to you for additional information and/ or correction.

On the revised application:

In item no. 4, please place the letter N in front of the W so to read NW.

In item no. 6, please check "other" and write in, gravel pit/pond.

In item no. 7, please place a "0" in the GPM box, 3.88 in the acre-feet box, 20 in the total depth box and alluvial in the aquifer box.

In item no. 8, insert 2.85 acres in the NW1/4 of the NW1/4 of said Section 2.

On the application for a replacement plan:

Under aquifer and general description please write alluvial for the aquifer.
In the same area, please place the letters NW1/4 of NW1/4.
There is a \$100.00 filing fee attached to this application.

On the letter:

The letter should state that you want to amend the replacement plan to show the actual constructed location of the gravel pit/pond known as the McCarty Pit, as being in the NW1/4 of the NW1/4 of said Section 2.

I have attached form no. **DBB-011** otherwise known as a "Waiver of Claim to Injury". One form is needed for each well within 1/2 mile of the existing pond. If you want, you may complete the form for the well owners. The form will read I own well permit no. XXXXXX and waive my claim to injury to application receipt no. 3696986.

Once these changes are complete, please email them to the address at the top of the form,
www.permitonline@state.co.us.

Once filed, you will receive an email regarding payment for the application. Please be advised that we are working remotely so this may be a day or two depending on timing. Also, the recent unrest in Denver is by our office so we have been advised, for our safety, not to go into the office until things settle down.

Please email me with any questions.

Rick

On Tue, May 26, 2020 at 10:41 AM Deborah Davies <deborah.jeanne.davies@gmail.com> wrote:

Hi Rick,

This is Debbie Davies with L & M Ranch, LLC. We have the ponds (gravel pits) in Agate, CO. We have been working on clearing up the permit. I have called the office and learned that because of the current pandemic it is better to contact you by email.

I have a couple of questions about your letter of March, 11, 2020.

First, I have amended the location on the application to reflect the UTM coordinates.

My question regarding the GWS-69 application is the Aquifer. I do not know what information to put for the aquifer. I think I would leave it blank since this is a gravel pit.

The maximum extent of the surface of the open water is 1.85 acres.

I do not have the Waiver of Claim to Injury form. The only form included in the envelope was the GWS-69 form and 5 copies of the GWS-11 Change in Owner Name form. Am I able to find that form online? What is the form number for the Waiver of Claim to Injury form?

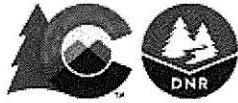
You indicated that there are 3 wells less than one-half mile from the pond. You also stated that we have 2 permits of record. Will we need to complete the form 6 times. Is it possible to use one form that lists both of our well permit numbers and the 3 permit numbers for the Tureceks?

I think I understand you would have us to contact the Turecek's to get their signature on the Waiver of Claim to Injury form? Is that correct?

Thanks,
Debbie Davies
303-981-0482

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Richard "Rick" Nielsen, P.E.
Water Resource Engineer



COLORADO
Division of Water Resources
Department of Natural Resources

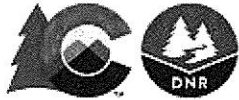
P 303.866.3581x8237

1313 Sherman St., Suite 821, Denver, CO 80203

Rick.Nielsen@state.co.us | water.state.co.us

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Richard "Rick" Nielsen, P.E.
Water Resource Engineer



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Division of Water Resources
Department of Natural Resources

P 303.866.3581x8237

1313 Sherman St., Suite 821, Denver, CO 80203

Rick.Nielsen@state.co.us | water.state.co.us