

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

LIC

WELL PERMIT NUMBER		047100		- F -	
DIV. 8	CNTY. 20	WD 1	DES. BASIN 2	MD	

APPLICANT

LARRY MCCARTY
7967 S PONTIAC WY
ENGLEWOOD CO 80112-

(303)773-1967

APPROVED WELL LOCATION
ELBERT COUNTY

NE 1/4 NW 1/4 Section 2
Twp 7 S RANGE 59 W 6th P.M.

DISTANCES FROM SECTION LINES

Ft. from	Section Line
Ft. from	Section Line

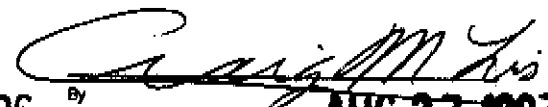
PERMIT TO CONSTRUCT A WELL

CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-90-107 for the construction and operation of a well (gravel pit) in accordance with the replacement plan approved by the Commission on August 22, 1996, for the McCarty Pit, Division of Minerals & Geology Permit Number M-96-001. The well (pond) shall not be operated unless it is included in a replacement plan approved by the Commission. If the conditions of the replacement plan are not complied with, this well permit is null and void, all use of the water must cease immediately, and the gravel pit must be backfilled, to the satisfaction of the Commission, to prevent evaporation of ground water from the pit.
- 4) The average annual amount of ground water to be appropriated shall not exceed 3.88 acre-feet with the total surface area of the proposed ground water pond limited to 2.85 acres.
- 5) The use of ground water, in addition to evaporation, is limited to water removed with the product. No other use of water is allowed unless a permit therefor is approved.
- 6) The boundaries of the gravel pit pond shall be more than 1/2 mile from any existing high capacity well.
- 7) Production is limited to the alluvium of East Bijou Creek or its tributaries. The depth of this well shall not exceed 20 feet or the depth at which sandstone or shale is first encountered, whichever comes first.
- 8) The provision of the Minimum Construction Standards in Rule 10 shall be waived for gravel pits except for Rules 10.1 and 10.2.1 regarding aquifer contaminants. The owner of the gravel pit shall take necessary means and precautions to prevent contaminants from entering the gravel pit well.
- 9) The owner shall submit, after initiation of excavation, plan and cross section drawings on 8-1/2" x 11" paper showing the extent of excavation, the maximum depth of the pit, and the initial static water level.
- 10) The owner shall mark the well (pond) in a conspicuous place with well permit number. The owner shall take necessary means and precautions to preserve these markings.

APPROVED
CML


State Engineer


By

Receipt No. 0396141

DATE ISSUED AUG 27 1996

EXPIRATION DATE AUG 27 1997

FINDINGS OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF AN APPLICATION FOR A PERMIT TO APPROPRIATE GROUND WATER IN THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN THROUGH THE MINING OF SAND AND GRAVEL

APPLICANT: Larry McCarty

AQUIFER: Alluvium of East Bijou Creek

PERMIT NO.: 047100 -F

In compliance with Section 37-90-107(1), C.R.S., Larry McCarty (hereinafter "applicant") submitted an application for a gravel pit well permit to construct a pond and appropriate ground water from the alluvium of East Bijou Creek. Based on information provided by the applicant and records of the Division of Water Resources, the Ground Water Commission finds as follows:

1. The application was received complete by the Ground Water Commission on February 6, 1996.
2. The applicant proposes to construct the well (pond) in the NE1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West of the 6th Principal Meridian. The proposed annual appropriation of this well is 3.88 acre-feet, the proposed exposed water surface is to be a maximum of 2.85 acres. The anticipated net depletion for the mining year (May 1996 through April 1997) and post mining years are 1.40 acre-feet and 3.88 acre-feet, respectively. The depletion from evaporative loss for the mining year and post mining years are 7.51 acre-feet and 11.31 acre-feet, respectively. The depletions are to be replaced through credits from effective precipitation, eradication of meadow grass and phreatophytes, and a replacement plan. The depletion credits total 7.43 acre-feet for both mining and post mining years.
3. The proposed well is located within the boundaries of the North Kiowa-Bijou Designated Ground Water Basin and the Ground Water Commission has jurisdiction.
4. The applicant proposes to apply the water diverted from the well to the following beneficial uses: evaporation from the water surface and water removed in the product.
5. Pursuant to Section 37-90-107(2), C.R.S., the application was published in the Ranch Land News on July 11 and 18, 1996. No objections were filed within the allowable time.
6. There are two high-capacity wells within 1/2 mile of the proposed pond. The wells with Permit Nos. 9478-F and 9548-F are the only high-capacity wells completed in the alluvium within 1/2 mile of the proposed well (pond). Waivers of injury for the wells with Permit Nos. 9478-F and 9548-F are in the file of the proposed well.
7. The Commission finds that unreasonable impairment of existing water rights will not occur from issuance of this permit if the following conditions are complied with:
 - A. This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
 - B. The construction of this well shall be in compliance with the Water Well

Applicant: Larry McCarty
Aquifer: Alluvium of tributaries to Bijou Creek
Permit No.: 047100 -F

Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.

- C. Approved pursuant to CRS 37-90-107 for the construction and operation of a well (gravel pit) in accordance with the replacement plan approved by the Commission on August 22, 1996, for the McCarty Pit, Division of Minerals & Geology Permit Number M-96-001. The well (pond) shall not be operated unless it is included in a replacement plan approved by the Commission. If the conditions of the replacement plan are not complied with, this well permit is null and void, all use of the water must cease immediately, and the gravel pit must be backfilled, to the satisfaction of the Commission, to prevent evaporation of ground water from the pit.
- D. The average annual amount of ground water to be appropriated shall not exceed 3.88 acre-feet with the total surface area of the proposed ground water pond limited to 2.85 acres.
- E. The use of ground water, in addition to evaporation, is limited to water removed with the product. No other use of water is allowed unless a permit therefor is approved.
- F. The boundaries of the gravel pit pond shall be more than 1/2 mile from any existing high capacity well.
- G. Production is limited to the alluvium of East Bijou Creek or its tributaries. The depth of this well shall not exceed 20 feet or the depth at which sandstone or shale is first encountered, whichever comes first.
- H. The provision of the Minimum Construction Standards in Rule 10 shall be waived for gravel pits except for Rules 10.1 and 10.2.1 regarding aquifer contaminants. The owner of the gravel pit shall take necessary means and precautions to prevent contaminants from entering the gravel pit well.
- I. The owner shall submit, after initiation of excavation, plan and cross section drawings on 8-1/2" x 11" paper showing the extent of excavation, the maximum depth of the pit, and the initial static water level.
- J. The owner shall mark the well (pond) in a conspicuous place with well permit number. The owner shall take necessary means and precautions to preserve these markings.

Dated this 27th day of August, 19 96.

Hal D. Simpson
Hal D. Simpson
State Engineer

By Craig M. Lis
Craig M. Lis, P.E.
Supervisor, Designated Basins Team

Prepared by: CML

TEMPORARY WAIVER OF CLAIM TO INJURY

I, Larry M. Carly swear that I am the present owner of the well with Permit No. 9548-F located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T 7 South, R 59 W. As owner, I hereby waive all claim of injury due to depletion of water table, which may arise from the proximity of the well involved in the new permit applied for by Central Sand and Gravel to be located in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T 7 South, R 59 W.

Larry M. Carly
(Signature)

8-27-96
(Date)

TEMPORARY WAIVER OF CLAIM TO INJURY

I, Larry M. Carl swear that I am the present owner of the well with Permit No. 9478-F located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T 7 South, R 59 W. As owner, I hereby waive all claim of injury due to depletion of water table, which may arise from the proximity of the well involved in the new permit applied for by Central Sand and Gravel to be located in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T 7 South, R 59 W.

Larry M. Carl
(Signature)

8-27-96
(Date)

FORM NO. GWS-27 12/93

STATE OF COLORADO OFFICE OF THE STATE ENGINEER 823 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203 (303) 866-3581

For Office Use only

SEE INSTRUCTIONS ON REVERSE SIDE

GRAVEL PIT WELL PERMIT APPLICATION

CHECKING TRIBUNAL 026696 1463.00 DIV OF WATER RESOURCES

RECEIVED

FEB 06 '96

WATER RESOURCES STATE ENGINEER COLO

Nothing on 530 (or 18)

530

1. TYPE OF PERMIT [X] NEW PIT(S) [] PIT(S) EXIST, CONSTRUCTED AFTER DEC. 31, 1980

2. OWNER NAME(S) Larry McCarty Mailing Address 7967 South Pontiac Way City, St. Zip Englewood CO 80112 Phone (303) 773-1967

3. ADDRESS OF LOCAL CONTACT (if different than #2) NAME(S) Carl Roberts Mailing Address 4521 Howard Blvd., PO Box 964 City, St. Zip Columbus NE 68601 Phone (402) 564-2875

PIT NAME McCarty Pit MLRD NO.

4. GENERAL LOCATION OF PIT(S): COUNTY NE 1/4 NW 1/4, Sec. 2 Twp. 7 [] N. [X] S., Range 59 [] E. [X] W. 6th P.M.

5. Total number of water surface acres (to be) exposed 4 Total Number of Pits 1

6. Estimated total depth of pit 20 ft. Estimated depth to groundwater 12

7. (a) Estimated date to begin excavation February 1993, to complete excavation August 1993

8. ATTACHMENTS: (Check which have been attached.) (a) [X] Scaled map of pit area tied to a Section or 1/4 Corner (Required). (b) [] Copy of the reclamation permit if applicable. (c) [] Copy of Pre 1/15/89 Water Conservancy Dist. or Water User Assoc. Augmentation Agreement if applicable. (d) [] Copy of proposed Augmentation or Temporary Supply Plan if applicable. (e) [] Copy of Court approved Augmentation Plan if applicable. (f) [X] Other Temporary Substitute Water Supply Plan

9. Detailed description of the use and method of diversion of any water withdrawn from the pond. Removed by excavation (4% of material removed by weight is water)

10. I (we) have read the statements made herein and know the contents thereof, and that they are true to my (our) knowledge. [Pursuant to Section 24-4-104 (13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.]

Name/Title (Please type or print) Heather Thompson Agent for Applicant Signature Heather Thompson Date Feb. 2, 1996

For Office Use only

Court Case No. Div. 8 Co. 20 WD A Basin 02 MD Use

INSTRUCTIONS FOR THE COMPLETION OF GRAVEL PIT WELL PERMIT APPLICATION FORM

The Application must be typewritten or printed in **BLACK INK**. Initial and date any changes you make on the form.

INCOMPLETE FORMS ARE NOT ACCEPTABLE AND WILL BE RETURNED. ATTACH ADDITIONAL SHEETS IF MORE SPACE IS NEEDED.

FILING FEES: \$60 FOR EACH WELL PERMIT APPLIED FOR. ONE WELL PERMIT IS REQUIRED FOR EACH "MLRD" PERMIT AREA.

>> IN ADDITION, A FEE OF \$1343.00 IS REQUIRED TO EVALUATE THE SUBSTITUTE SUPPLY PLAN OR AUGMENTATION PLAN IF GROUNDWATER WAS EXPOSED AFTER DECEMBER 31, 1980.

If you have questions, contact the Denver or the Division Office where the pit is located.

1. Check the appropriate box for the classification of permit you are applying for. A permit is not required if the pit was constructed prior to December 31, 1980 and has not been reactivated.
2. Print the owner's name and include the mailing address and phone number.
3. If the address of the local contact is different than the mailing address of the owner, then that information should be included in this box. Indicate the name(s) of the gravel pit(s)
4. The location must include 1/4, 1/4, Section, Township, Range and Principal Meridian. Check the appropriate boxes for North or South and East or West directions.
5. Indicate the total number of acres of water exposed to the atmosphere and the total number of pits.
6. Indicate the proposed or actual total depth of the pit(s).
7. The proposed or actual dates of beginning and completion of excavation must be indicated.
8. The list of attachments to this application provides information which is necessary to the evaluation. A scaled map of the pit area tied to a Section of 1/4 corner is required. Some of the items may not apply to your particular instance.
9. If exposed water is to be used for any purpose other than evaporation, those uses must be detailed. The information required includes but is not limited to the amount of gravel mined, the use and method of diversion of water, the pumping rate in gpm and the average annual amount of water diverted for the purposes described.
10. The pit owner or his designee must sign the Statement. Print or type your name in the first block if it is different from Item No. 1. If signing as a representative of a company who owns the pit, then your title must also be included in the first block. Sign the second block and date the last block.

If you have questions, contact the Denver Office or the Division Office where your well is located.

DIVISION 1
800 8th Ave Rm 321
Greeley CO 80631
(303) 352-8712

DIVISION 2 Box 5728
219 W 5th Rm 223
Pueblo CO 81003
(719) 542-3368

DIVISION 3 Box 289
422 4th St
Alamosa CO 81101
(719) 589-6683

DIVISION 4 Box 456
1540 E Niagara
Montrose CO 81402
(303) 249-6622

DIVISION 5 Box 396
50633 US Hwy 6 & 24
Glnwd Spgs CO 81601
(303) 945-5665

DIVISION 6 Box 773450
625 So. Lincoln Ave
Stmbt Spgs CO 80477
(303) 879-0272

DIVISION 7 Box 1880
1474 Main St
Durango CO 81302
(303) 247-1845

DENVER OFFICE
Rm 821
1313 Sherman St
Denver CO 80203
(303) 866-3581

**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR A REPLACEMENT PLAN AND A CHANGE OF THE USE ALLOWED BY PERMIT NO. 9548-F AND DISCONTINUANCE OF THE USE ALLOWED BY PERMIT NO. 9478-F.

APPLICANT: Central Sand & Gravel Company
OWNER: Larry McCarty
PIT NAME: McCarty Pit
LOCATION: E1/2 of the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M.
Kiowa-Bijou Designated Ground Water Basin, Elbert County

The applicants have applied for a replacement plan and change of use of the well with Permit No. 9548-F to allow the well to be used to provide replacement water for depletions associated with sand and gravel mining from the McCarty Pit.

1. The anticipated net depletion for the mining year (May 1996 through April 1997) is 1.40 acre-feet for 2.85 acres of water exposed. The depletion from evaporative loss is 7.51 acre-feet and the water lost with the product is 1.32 acre-feet.
2. The anticipated net depletion for the post-mining years is 3.88 acre-feet for 2.85 acres of water exposed. The depletion from evaporative loss is 11.31 acre-feet.
3. The proposed source of replacement for the operation of the gravel pit is 0.14 acre-feet of soil moisture storage, 0.70 acre-feet of consumptive use by native grass and 6.59 acre-feet by cottonwoods, which were removed from the site during April, 1996, for a total of 7.43 acre-feet. Additional replacement credits totaling 3.92 acre-feet are to be provided by dry up of 30 acres of land permitted to be irrigated by the wells with Permit Nos. 9548-F and 9478-F. The total replacement credits are 11.35 acre-feet. Replacement is to be accomplished by discontinuing the historic withdrawal of water from the wells with Permit Nos. 9548-F and 9478-F, however, historic use estimates were not provided for the well with Permit Nos. 9478-F.
4. Review of records in the Office of the State Engineer indicated that the well with Permit No. 9478-F was permitted to irrigate the same land as the well with Permit No. 9548-F. Larry McCarty has claimed ownership of both wells.
5. Well permit No. 9548-F is for a well located in the NE1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th Principal Meridian. Permit No. 9548-F was issued on May 10, 1965. A Beneficial Use Statement claiming 30 acres of irrigation was received on February 6, 1996.
6. Well permit No. 9478-F is for a well located in the NE1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th Principal Meridian. Permit No. 9478-F was issued on May 4, 1965. A Beneficial Use Statement claiming 30 acres of irrigation was received on July 16, 1996.

7. The wells are located in the Kiowa-Bijou Designated Ground Water Basin and the Colorado Ground Water Commission has jurisdiction to review the proposed replacement plan and change of use pursuant to Sections 37-90-107 and 111(1)(g), C.R.S., respectively.
8. Permit Nos. 9548-F and 9478-F are valid for the irrigation of 30 acres in the NW1/4 of said Section 2. A change of use application was not filed for the well with Permit No. 9478-F.
9. The application, received February 6, 1996 seeks a change of use of 3.92 acre-feet of water from the well with permit no. 9548-F for to be used as replacement water for depletions associated with a sand and gravel mining operation known as the McCarty Pit, Division of Minerals and Geology File No. M-96-001.
10. The wells in question are not located in a Ground Water Management District.
11. Pursuant to Section 37-90-111(1)(g), C.R.S., the application was published in the Ranch Land News on July 11 and 18, 1996. No objections were filed within the allowable time.
12. In support of this application, the applicant has submitted information on historic crops and acreage for the well with Permit No 9548-F. The Commission has reviewed this information and determined that for the crops indicated the maximum potential crop consumptive use of well water associated with the authorized 30 acres averaged 13.5 acre-feet per year.
13. No historic use information has been provided for the well with Permit No. 9478-F.
14. The following information was available from the files of the Colorado Division of Water Resources for the well with Permit No. 9548-F to relate past power use to the amount of water actually pumped.

Data from map and statement or well construction report:

Date of initial well test	February 7, 1967
Static water level	12 ft.
Pumping rate	225 g.p.m.
Final water level	26 ft.
Total depth of well	35 ft.
Length of pump test	8 Hours

Data submitted by the applicant:

Irrigation method:	Flood
Operating pressure:	0 psi
Static water level	11.7 ft.
Pumping rate	40.7 gpm
Pumping water level,	13.5 ft.
actual use conditions	in 1995.

15. The applicant determined that the historic amount of ground water pumped from the aquifer through the well with Permit No. 9548-F on an average annual basis for use on the 30 acres permitted was determined to be 10.2 acre-feet per year with a consumptive use of 3.92 acre-feet per year from the aforementioned data and other information available in the offices of the Division of Water Resources.
16. The proposed use of ground water from the well with Permit No. 9548-F must be restricted to an average annual consumptive use of 3.92 acre-feet, and the well with Permit No. 9478-F must be restricted to an average annual consumptive use of zero acre-feet in order to prevent injury to vested water rights. The proposed use of water will not result in increased depletion of the aquifer if pumping is thus limited.
17. The well with Permit No. 9548-F is located within 1/4 mile of the proposed pit location.
18. There are no intervening water rights between the well with Permit No. 9548-F and the proposed pit.
19. In order to prevent injury to the vested water rights of others in the Ogallala Aquifer of the Northern High Plains Designated Ground Water Basin it is necessary to impose conditions on the proposed change of use. Under conditions as stated in the Order, no material injury will occur to other vested water rights.

O R D E R

The application for a replacement plan and a change of use for the well with permit No. 9548-F and discontinuance of the use of the well with Permit No. 9748-F is approved subject to the following conditions:

1. The terms of this approval shall be considered as covenants running with the land as described, modifiable in the future only by the Colorado Ground Water Commission or its successors in conformity with Title 37, Article 90 of the Colorado Revised Statutes, also known as the Colorado Ground Water Management Act, as it exists on the date such modification is made. **A certified copy of this approval shall be recorded in the public records of the county clerk of the applicable county.** Any modifications shall likewise be recorded.
2. The change of use of the wells shall be limited to replacement water for the McCarty Pit through the discontinuance of pumping. No withdrawal from the wells with Permit Nos. 9548-F and 9478-F is allowed unless new permits for these wells are approved or these conditions are modified by subsequent approvals. A Dry-Up Covenant submitted by the well owner, Larry P. McCarty, on July 16, 1996 is attached and incorporated as conditions of this approval. If any conflicts are found to exist between this order and the attached Dry-Up Covenant, this order shall take precedence.
3. The total amount of water consumptively used for the change of use shall not exceed 3.92 acre-feet. The wells may not be used for both irrigation and replacement for the McCarty Pit in the same calendar year unless totalizing flow meters have been installed on both wells

at the wellheads prior to withdrawal of any water in that calendar year and withdrawals are recorded on a daily basis.

4. The wells may continue to be used for irrigation purposes in accordance with paragraph 2 of this order and permit nos. 9548-F and 9478-F until they are first used for replacement water for the McCarty Pit, after which no water may be withdrawn pursuant to permit nos. 9548-F and 9478-F. First use occurs upon exposure of ground water in the pit. If, during the calendar year of first use of the subject wells for replacement water, either well was used during that calendar year for both irrigation and replacement water, the combined withdrawal of the wells shall not exceed 10.2 acre-feet and the water consumptively used may not exceed 3.92 acre-feet.
5. Prior to initiation of the change of use, the pumps shall be removed from the wells to render them incapable of withdrawing water, or totalizing flow meters must be installed, in accordance with manufacturers specifications and Commission Policy Memorandum 95-3, on both of the wells at the wellheads and withdrawals recorded on a daily basis.
6. The well with Permit No. 9548-F shall be maintained as a monitoring well. 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. These measurements shall be submitted each year to the Commission within two weeks of the date the measurements were observed.
7. If the water level measurements required by paragraph 5 of this order show a declining water level or are not submitted upon request, the Commission may require the applicant to demonstrate that the well with Permit No. 9548-F is capable of producing the amount of replacement water required by this approval. Failure to demonstrate such capability within ninety (90) days of the Commission's request shall be sufficient cause to void this approval.
8. The applicant shall allow Commission representatives access to all lands at all reasonable times for inspection and other visits necessary to administer this order.

ORDERED this 22nd day of August, 19 96.



Hal D. Simpson
Executive Director
Ground Water Commission

By:



Purushottam Dass
Supervising Professional Engineer

RECEIVED
JUL 16 1996

WATER RESOURCES
STATE ENGINEER
COLO.

DRY-UP COVENANT

1. On and after April 1, 1996, Grantor covenants and agrees that the water and water rights represented by Well Permit No. 9548-F (the Well) shall not be used in connection with the real property described in paragraph 2 below. The Well shall be used solely as replacement water for the McCarty Pit as described in any temporary or permanent change of water rights that may be approved by the Ground Water Commission for said well. In addition, no other source, including Well Permit No. 9478-F, shall be used in connection with irrigation of the real property described below.

2. Grantors covenants and agrees not to make any consumptive use of the water and water rights associated with the Well and any other source on the agricultural property located as described below and as shown on the attached map:

Location: Approximately 30.0 acres total located south of County Road 170 and east of East Bijou Creek.

3. Grantors covenants and agrees not to make any non-exempt consumptive use of the water associated with the Well and Well Permit No. 9478-F on any other agricultural property unless such use is authorized by an approved Plan for Augmentation or Substitute Supply Plan.

GRANTOR:

By: Larry P. McCarty

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



July 2, 1996

Roy Romer
Governor

James S. Lochhead
Executive Director

Hal D. Simpson
State Engineer

Attn: Dolores
Ranch Land News
P.O. Box 307
Simla, CO 80835

Gentlemen or Ladies:

Please publish the enclosed legal notice in your editions of July 11 and 18, 1996, or as close to these dates as possible. Please single-space all the enclosed material in double column.

Prior to publishing the legal notice, a "proof copy" must be submitted to this office for approval. This "proof copy" will be inspected by the Division staff and a reply as to its correctness will be made immediately by phone or in writing. This "proof copy" should be directed to my attention at the Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, Colorado 80203 by mail or by FAX at 303-866-3589.

Upon publication, please send a copy of the newspaper in which the notice is printed, to my attention at the above address. This copy is needed immediately to respond to questions from the general public.

Please submit four copies of your billing, including the cost of the single copy of the newspaper and postage and handling to:

Colorado Ground Water Commission
1313 Sherman Street, Room 818
Denver, Colorado 80203

We have been advised by the State Controller and the State Purchasing Agent that we must request four copies of the billing and four copies of the proof of publication. Two copies of the proof of publication must be notarized. Since we must re-bill the applicant prior to approval, please transmit the billing and proofs of publication as soon as possible.

Should you have any questions concerning publication of this notice, please contact this office.

Sincerely,

Craig M. Lis, P.E.
Supervisor, Designated Basins Branch

Enclosure

cc: Heather Thompson, Bishop-Brogden Associates, Inc.
Commissioner Bill Kerksiek

McCarty.cvr/Form 0580f.mrg

BEFORE THE COLORADO GROUND WATER COMMISSION

CONCERNING THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN; ELBERT COUNTY

Take notice that pursuant to Section 37-90-107, C.R.S., Central Sand & Gravel Company has applied for the appropriation of ground water from the Kiowa Bijou Designated Ground Water Basin through the mining of sand and gravel from the alluvium of East Bijou Creek. The appropriation is to be augmented through a replacement plan. Pursuant to Section 37-90-111(1)(g), C.R.S., Central Sand & Gravel Company has also applied to change the use of the well with Permit No. 9548-F to allow the historic consumptive use of well water to be used as the source of water for the replacement plan. Such a change of use may be allowed subject to terms and conditions necessary to prevent material injury to other appropriators.

The extraction of sand and gravel will occur through open mining which will expose ground water in the E1/2 of the NW1/4 of Section 2, Township 7 South, Range 59 West of the 6th P.M., in Water Division 1, Water District 1, Elbert County. The maximum exposed water surface will be 2.85 acres. The requested maximum annual appropriation is 3.88 acre-feet. The appropriation will be used to replace evaporative losses from the water surface and water lost in the product for the life of the mine. Following completion of mining operations the appropriation will be used to augment evaporative losses from the water surface. To prevent injury to vested water rights, all depletions to the alluvium will be replaced by discontinuing withdrawal of water, historically used for irrigation, from the well with Permit No. 9548-F.

Conditional Permit No. 9548-F is for a well located in the NE1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M. The permit allows 75 acre-feet per year for the irrigation of 30 acres in the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M.

In support of this application Central Sand & Gravel Company has indicated that the following crops and acreage have been irrigated since 1980.

<u>Year</u>	<u>Crop</u>	<u>Acres</u>	<u>Year</u>	<u>Crop</u>	<u>Acres</u>
1980	Winter Wheat	35	1987	Winter Wheat	35
1981	Winter Wheat	35	1988	Winter Wheat	35
1982	Winter Wheat	35	1989	Winter Wheat	35
1983	Winter Wheat	35	1990	Winter Wheat	35
1984	Winter Wheat	35	1992	Oats	35
1985	Winter Wheat	35	1994	Oats	35
1986	Winter Wheat	35	1995	Winter Wheat	35

Central Sand & Gravel Company has submitted well test data indicating a 1995 pumping water level of 13.5 feet, an operating pressure of 40.7 psi and an efficiency of 2.4 percent.

Power records submitted indicate this well has used an average of 1948 KWH of electricity per year from 1980 to 1995. The applicant has calculated that the average annual

amount of water withdrawn for use on the 30 acres permitted has been approximately 10.2 acre-feet, with an average annual consumptive use of water of 3.92 acre-feet.

Pursuant to statute, the change in use must be limited by such terms and conditions as necessary to prevent injury to other water rights. The Commission would consider the historic use of the well and the resulting aquifer depletion as the measure of the water right which could be changed without material injury to other water users. The Commission would only consider the water used to irrigate the acreage within the permitted amount as the historic use of the well.

Any person wishing to object to the requested appropriation and change must do so in writing briefly stating the nature of the objection. The objection must be accompanied by a \$10 fee and must be received by the Colorado Ground Water Commission, 818 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203, by August 19, 1996.

/Form #0580(z)

PUBLISHER'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF ELBERT)

I, Fred Lister, do solemnly affirm that I am the Publisher of RANGLAND NEWS; that the same is a weekly newspaper published at Simla, County of Elbert, State of Colorado, and has a general circulation therein; that said newspaper has been continuously and uninterruptedly published in said County of Elbert for a period of at least 52 consecutive weeks next prior to the first publication of the annexed notice, that said newspaper is entered in the post office at Calhan, Colorado as second class mail matter and that said newspaper is a newspaper within the meaning of the Act of the General Assembly of the State of Colorado, approved March 30, 1923, and entitled "Legal Notices and Advertisements," with other Acts relating to the printing and publishing of legal notices and advertisements. That the annexed notice was published in the regular and entire issue of said newspaper, once each week for 2 successive weeks; that the first publication of said notice was in the issue of said newspaper dated:

July 11, 1998

and the last publication of said notice was in the issue of said newspaper dated:

July 18, 1996

and that copies of each number of said paper in which said notice and/or list was published were delivered by carriers or transmitted by mail to each of the subscribers of said newspaper, Ranchland News, according to the accustomed mode of business in this office.

Fred Lister
Publisher

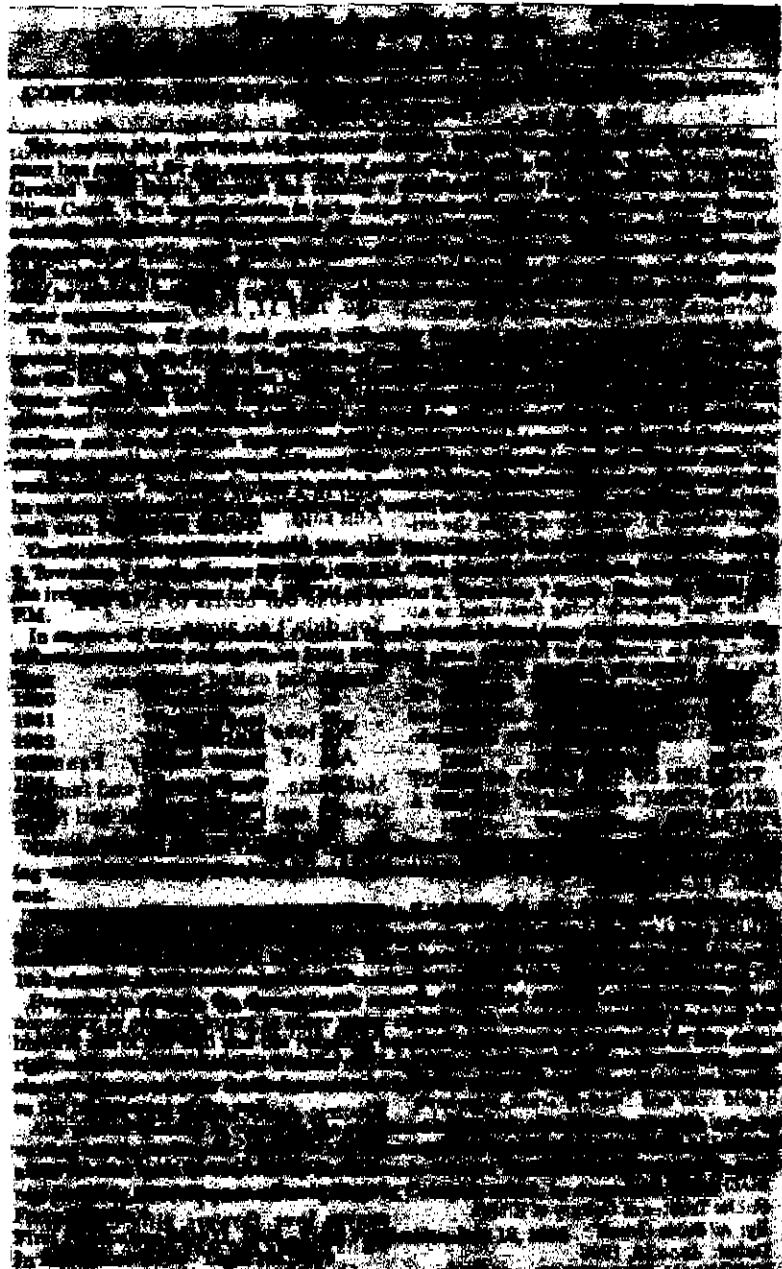
The above certificate of publication was subscribed and affirmed to before me, a Notary Public, to be the identical person described in the above certificate, on the

18th day of July 1996

Malcolm Stoddy
Notary Public

September 19, 1998

(My Notary Public Commission Expiration Date)



PUBLISHER'S AFFIDAVIT

STATE OF COLORADO)
) ss.
 COUNTY OF ELBERT)

I, Fred Lister, do solemnly affirm that I am the Publisher of RANGLAND NEWS; that the same is a weekly newspaper published at Simla, County of Elbert, State of Colorado, and has a general circulation therein; that said newspaper has been continuously and uninterruptedly published in said County of Elbert for a period of at least 52 consecutive weeks next prior to the first publication of the annexed notice, that said newspaper is entered in the post office at Calhan, Colorado as second class mail matter and that said newspaper is a newspaper within the meaning of the Act of the General Assembly of the State of Colorado, approved March 30, 1923, and entitled "Legal Notices and Advertisements," with other Acts relating to the printing and publishing of legal notices and advertisements. That the annexed notice was published in the regular and entire issue of said newspaper, once each week for 2 successive weeks; that the first publication of said notice was in the issue of said newspaper dated:

July 11, 1998

and the last publication of said notice was in the issue of said newspaper dated:

July 18, 1996

and that copies of each number of said paper in which said notice and/or list was published were delivered by carriers or transmitted by mail to each of the subscribers of said newspaper, Ranchland News, according to the accustomed mode of business in this office.

Fred Lister
 Publisher

The above certificate of publication was subscribed and affirmed to before me, a Notary Public, to be the identical person described in the above certificate, on the

18th day of July, 1996

Malorie Maddy
 Notary Public

September 19, 1998
 (My Notary Public Commission Expiration Date)

Water Applications

BEFORE THE COLORADO GROUND WATER COMMISSION

CONCERNING THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN;
 ELBERT COUNTY

Take notice that pursuant to Section 37-90-107, C.R.S., Central Sand & Gravel Company has applied for the appropriation of ground water from the Kiowa Bijou Designated Ground Water Basin through the mining of sand and gravel from the alluvium of East Bijou Creek. The appropriation is to be augmented through a replacement plan. Pursuant to Section 37-90-111(1)(g), C.R.S., Central Sand & Gravel Company has also applied to change the use of the well with Permit No. 9548-F to allow the historic consumptive use of well water to be used as the source of water for the replacement plan. Such a change of use may be allowed subject to terms and conditions necessary to prevent material injury to other appropriators.

The extraction of sand and gravel will occur through open mining which will expose ground water in the E1/2 of the NW1/4 of Section 2, Township 7 South, Range 59 West of the 6th P.M., in Water Division 1, Water District 1, Elbert County. The maximum exposed water surface will be 2.85 acres. The requested maximum annual appropriation is 3.88 acre-feet. The appropriation will be used to replace evaporative losses from the water surface and water lost in the product for the life of the mine. Following completion of mining operations the appropriation will be used to augment evaporative losses from the water surface. To prevent injury to vested water rights, all depletions to the alluvium will be replaced by discontinuing withdrawal of water, historically used for irrigation, from the well with Permit No. 9548-F.

Conditional Permit No. 9548-F is for a well located in the NE1/4 of the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M. The permit allows 75 acre-feet per year for the irrigation of 30 acres in the NW1/4 of Section 2, Township 7 South, Range 59 West, 6th P.M.

In support of this application Central Sand & Gravel Company has indicated that the following crops and acreage have been irrigated since 1980.

Year	Crop	Acres	Year	Crop	Acres
1980	Winter Wheat	35	1987	Winter Wheat	35
1981	Winter Wheat	35	1988	Winter Wheat	35
1982	Winter Wheat	35	1989	Winter Wheat	35
1983	Winter Wheat	35	1990	Winter Wheat	35
1984	Winter Wheat	35	1992	Oats	35
1985	Winter Wheat	35	1994	Oats	35
1986	Winter Wheat	35	1995	Winter Wheat	35

Central Sand & Gravel Company has submitted well test data indicating a 1995 pumping water level of 13.5 feet, an operating pressure of 40.7 psi and an efficiency of 2.4 percent.

Power records submitted indicate this well has used an average of 1948 KWH of electricity per year from 1980 to 1996. The applicant has calculated that the average annual amount of water withdrawn for use on the 30 acres permitted has been approximately 10.2 acre-feet, with an average annual consumptive use of water of 2.92 acre-feet.

Pursuant to statute, the change in use must be limited by such terms and conditions as necessary to prevent injury to other water rights. The Commission would consider the historic use of the well and the resulting aquifer depletion as the measure of the water right which could be changed without material injury to other water users. The Commission would only consider the water used to irrigate the acreage within the permitted amount as the historic use of the well.

Any person wishing to object to the requested appropriation and change must do so in writing briefly stating the nature of the objection. The objection must be accompanied by a \$10 fee and must be received by the Colorado Ground Water Commission, 815 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203, by August 19, 1996.

Form #0580(x)
 First Publication July 11, 1996 - Final Publication July 18, 1996
 In Ranchland News - Legal No. 7649

Ranchland News
 115 Sioux Avenue
 P.O. Box 307
 Simla, CO 80835

Bil to: 192

Colorado Ground Water Commission
 818 Centennial Bldg.
 1313 Sherman Street
 Denver, CO. 80203

Date	Description	Units	Charges
07/11/96	Legal-24 Picas Water Applications Legal # 7649	55.000 Lines	56.76
07/18/96	Legal - Rerun-24 Picas Water Application Legal # 7649	55.000 Lines	39.60
<i>total</i>			<u>96.36</u>

*Bishop-
Brogden
Associates,
Inc.*

Water Consultants

RECEIVED

SEP 04 1996

Robert E. Brogden Harold E. Bishop

WATER RESOURCES
STATE ENGINEER
COLO

Michael A. Saylor
Charles E. Stanzione



333 West Hampden Avenue Ste. 1050 Englewood, CO 80110 (303) 806-8952 Fax (303) 806-8953

September 3, 1993

Mr. Craig Liss
State Engineer's Office
Department of Water Resources
1313 Sherman Street, Room 818
Denver, CO 80203

RE: Central Sand and Gravel's Temporary Substitute Supply Plan for the McCarty Pit

Dear Craig:

I have enclosed the original Temporary Waiver of Claim to Injury forms for Well Permit Nos. 9548-F and 9478-F. Copies of these forms were faxed to your office on August 27, 1996.

If you have any questions please give me a call.

Very truly yours,

BISHOP-BROGDEN ASSOCIATES, INC.

A handwritten signature in cursive script that reads "Heather D. Thompson".

Heather D. Thompson
Water Resources Engineer

HDT/
C9602.00
enclosures

*Bishop-
Brogden
Associates,
Inc.*

Water Consultants

Robert E. Brogden Harold F. Bishop

Michael A. Saylor
Charles E. Stanzione

RECEIVED

JUL 16 1996



165 South Union Boulevard Suite 670 Lakewood, Colorado 80228 (303) 980-8654

July 15, 1996

Mr. Craig Liss
State Engineer's Office
Department of Water Resources
1313 Sherman Street, Room 818
Denver, CO 80203

Dear Craig:

I have enclosed the following material with the revisions you requested for the McCarty Pit substitute water supply plan.

- Application for Change of Use for Well Permit No. 9548-F
- Statement of Beneficial Use for Well Permit No. 9478-F
- Dry-Up Covenant

As we discussed in our previous telephone conversation, the appropriate changes have been made to each form. In addition, I have added the corresponding Receipt No. to the Change of Use Permit so that an additional \$60.00 filing fee will not be required.

If you have any questions regarding the revisions to the enclosed material please give me a call.

Very truly yours,

BISHOP-BROGDEN ASSOCIATES, INC.

Heather D. Thompson
Water Resources Engineer

HDT/

C9602.00

cc: Carl Roberts

AUG 09 1996

WATER RESOURCES
STATE ENGINEER
COLO

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) 856-3581
FAX (303) 866-3589

July 31, 1996



Roy Romer
Governor
James I. Lochwood
Deputy Director
Hal D. Simpson
State Engineer

2550?
ok
Fix Address
8/6

Invoice No. 97PUB008

CARL ROBERTS
CENTRAL SAND & GRAVEL COMPANY
PO BOX 964
COLUMBUS NE 68601

INVOICE

Pursuant to Section 37-90-116 C.R.S. applicants are required to pay for the actual expense of publication for permits and applications.

Your gravel pit well permit application and change of use application for Permit No. 9548-F was published in the Ranchland News on July 11 and 18, 1996.

The following cost was incurred:

- Actual cost of publication (for publications which include several items the cost is divided among the applicants in proportion to the space required for their application.) \$ 96.36
 - Additionally, the following fee is required for NA \$ 0.00
-
- TOTAL PAYABLE TO: DIVISION OF WATER RESOURCES \$ 96.36

Your application or permit cannot be approved until the charges are paid. Please return only one copy of this invoice with payment to the above address within thirty (30) days.

Sincerely

Craig M. Lis, P.E.
Supervisor, Designated Basins Branch

Enclosures (a/s)

cc: Heather Thompson

Form 8296-01/02/95

LYMAN-RICHEY CORPORATION		
Route	Approved	Initial
DIVISION OF WATER RESOURCES		
Chief Engineer		
Public Relations		
Engineering		
Administrative		
Accounting		
Legal		
Human Resources		
Information Systems		
Construction		
Office		

4085-7670

CHECKS TR#404760 080996 96.36
DIV OF WATER RESOURCES

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



August 27, 1996

Roy Romer
Governor

James S. Lochhead
Executive Director

Hal D. Simpson
State Engineer

Carl Roberts
Central Sand & Gravel Company
P.O. Box 964
Columbus, NE 68601

Subject: Approval of Replacement Plan and Gravel Pit Well Permit for the McCarty Pit, Permit No. 47100-F

Dear Mr. Roberts:

Please find enclosed a copy of the Findings and Order of the Colorado Ground Water Commission approving your replacement plan and the McCarty gravel pit well permit. I would encourage you to carefully read the entire Findings and Order for both approvals. Please pay special attention to the Order section as it specifies what you must do before you may begin initiation of the change of use, which in this situation coincides with the exposure of ground water. **Specifically, Item 5 of the replacement plan approval requires you to either remove the pumps from the wells with Permit Nos. 9548-F and 9478-F or to install totalizing flow meters on these wells.**

Also enclosed is a certified copy of the Commission's Findings and Order for the replacement plan, which you are required to record in the public records of the county where the gravel pit is located.

Please contact this office if you have any questions.

Sincerely,

Craig M. Lis
Designated Basins Branch

Enclosures (a/s)

cc: Heather Thompson, Bishop & Brogden Associates, Inc.

cen_s&g.cvr/Form #1663.mrg