



COLORADO
Division of Water Resources
Department of Natural Resources

February 23, 2022

Mr. Paul Bruss, P.E.
BBA Water Consultants, Inc.
333 West Hampden Avenue, Suite 1050
Englewood, CO 80110
Sent via email: pbruss@bbawater.com

RE: Rocky Ford East Pit Substitute Water Supply Plan
DRMS Permit No. M-77-560
Section 21, Township 23S, Range 56W, 6th PM
Water Division 2, Water District 17
SWSP ID 0115, WDID 1707854

Approval Period: November 1, 2021 through October 31, 2023
Contact Phone Number for Mr. Bruss: 303-866-8952

Dear Mr. Bruss:

We have reviewed your August 31, 2021 letter requesting renewal of the substitute water supply plan ("SWSP") pursuant to §37-90-137(11), C.R.S., for a sand and gravel mine known as the Rocky Ford East pit owned by Valco, Inc. ("Valco" or "Operator"). The mine is permitted with the Division of Reclamation, Mining, and Safety under file no. M-77-560. The required \$257 fee has been paid and given receipt no. 10015054.

PLAN OF OPERATION

The Rocky Ford East Pit was previously operated under a combined SWSP plan, together with the Lamar East Pit and the Canon City East Pit. Valco previously conveyed the Lamar East Pit to the City of Lamar, and separated the Rocky Ford East Pit from the combined plan due to changes in the water supply. Active mining has finished at all three pits.

Valco has negotiated the sale of the West Pit (the portion of the property west of County Road 22) to Deep Cut, LLC ("Deep Cut"), who submitted a SWSP for the depletions on that parcel. In addition, Valco has transferred two shares of Rocky Ford Ditch to Deep Cut. Valco has retained the East Pit (see Figure 1) and will continue replacing evaporative depletions on that portion of the property. All post-1980 gravel mining pits with exposed groundwater have been backfilled as of April 2020, with photos provided to the Division Engineer. Lagged depletions continue to accrue to the Arkansas River from previous mining operations. This SWSP is being requested in order to continue to replace those lagged depletions.



In accordance with the letter dated April 30, 2010 from the Colorado Division of Reclamation, Mining, and Safety ("DRMS"), all sand and gravel mining operators must comply with the requirements of the Colorado Reclamation Act and the Mineral Rules and Regulations for the protection of water resources. The April 30, 2010 letter from DRMS requires that the operator provide information to DRMS to demonstrate that they can replace long term injurious stream depletions that result from mining related exposure of groundwater. The DRMS letter identified four approaches to satisfy this requirement. In accordance with approach no. 1, a bond has been obtained for \$193,678 through the DRMS to assure that depletions from groundwater evaporation do not occur in the unforeseen event, or events, that would lead to the abandonment of the Rocky Ford East Pit.

DEPLETIONS

Lagged depletions in the 2019-2021 SWSP approval letter were calculated based on the entire Rocky Ford East Pit (both the East Parcel and the West Parcel). Since 2018, Valco has only operated the East Parcel. The lagged depletions from the pre-August 2018 SWSP operation associated with the East Parcel were determined by calculating the difference between the total lagged depletions for the entire site and the calculated depletions from the West Parcel (Table 1 in the SWSP application), resulting in an estimated 0.4 acre-feet remaining in water year 2022 from the pre-2018 operations.

A Glover analysis of the East Parcel was performed using AWAS, with the following parameters:

Transmissivity:	71,000 gpd/ft
Specific yield:	0.2
Distance to river:	3,020 feet
Distance to boundary:	8,720

The remaining depletions were wrapped at 95%.

A summary of the lagged depletions to be replaced by Valco for their operations are presented in Table 3. The estimated depletion for water year 2022 is 6.84 acre-feet and for water year 2023 is 4.15 acre-feet. Since the remaining lagged depletions after October 2023 total 0.76 acre-feet and do not exceed 0.2 acre-feet per month, these depletions were proposed to be added to the augmentation requirement for October 2023. For the purposes of this SWSP, the remaining 0.76 acre-feet of lagged depletions must be replaced proportionally over the months of January - October, 2023, or as otherwise approved by the Division Engineer. An updated Table 3 that reflects replacement of the remaining 0.76 acre-feet of depletions over the period of January - October, 2023 must be submitted by March 1, 2022.

Table 3
Valco, Inc.
Rocky Ford East Pit - East Parcel
Lagged Depletions for SWSP Period

Month	East Parcel		
	From Updated SWSP Operations	From Pre-August 2018 SWSP Operations	Total
-	[1]	[2]	[3]
Nov 2021	0.69	0.12	0.81
Dec 2021	0.65	0.11	0.76
Jan 2022	0.62	0.09	0.71
Feb 2022	0.59	0.06	0.65
Mar 2022	0.57	0.03	0.60
Apr 2022	0.54	0.00	0.54
May 2022	0.52	0.00	0.52
Jun 2022	0.49	0.00	0.49
Jul 2022	0.47	0.00	0.47
Aug 2022	0.45	0.00	0.45
Sep 2022	0.43	0.00	0.43
Oct 2022	0.41	0.00	0.41
Nov 2022	0.39	0.00	0.39
Dec 2022	0.37	0.00	0.37
Jan 2023	0.35	0.00	0.35
Feb 2023	0.34	0.00	0.34
Mar 2023	0.33	0.00	0.33
Apr 2023	0.29	0.00	0.29
May 2023	0.26	0.00	0.26
Jun 2023	0.24	0.00	0.24
Jul 2023	0.23	0.00	0.23
Aug 2023	0.21	0.00	0.21
Sep 2023	0.20	0.00	0.20
Oct 2023	0.18	0.00	0.18
Nov 2023 - Oct 2024*	0.76	0.00	0.76
WY 2022	6.44	0.40	6.84
WY 2023	3.40	0.00	3.40
WY 2023* (incl. all remaining depletions)	4.15	0.00	4.15

Notes:

[1] Projected lagged depletions occurring during the SWSP period. *Remaining 0.76 af of lagged depletions from November 2023 to October 2024 to be aggregated and replaced in October 2023.

[2] Lagged depletions during the SWSP period resulting from operations prior to August 2018. See Table 2 column [3].

[3] Equal to [1] + [2].

REPLACEMENTS

Valco will continue to utilize a combination of leased water and historical ditch credits to make replacements to the river. A five-year lease (August 1, 2017 - July 2022) was obtained to provide replacement supplies during a portion of this SWSP approval period from the Upper Arkansas Water Conservancy District ("UAWCD"). The minimum and maximum amounts of leased water for each year of the agreement are shown in the table, below:

Period	Min	Max
August 2017 - July 2018	75	82
August 2018 - July 2019	42	80
August 2019 - July 2020	15	79
August 2020 - July 2021	6	79
August 2021 - July 2022	3	79

The Colorado Water Protective and Development Association ("CWPDA") has also confirmed that they will make up to 12 acre-feet available to Valco for use in 2022 and 2023.

Valco owned two shares in the Rocky Ford Ditch, which have been transferred to Deep Cut. However, these shares may result in consumptive use credits in excess of what Deep Cut required for this season. Valco may, with approval from Deep Cut and the Division Engineer, use a portion of those shares as part of its SWSP replacement requirement.

CONDITIONS OF APPROVAL

I hereby approve the proposed SWSP in accordance with Section 37-90-137(11), C.R.S., subject to the following conditions:

1. This SWSP shall be valid for the period of November 1, 2021 through October 31, 2023, unless otherwise revoked or superseded by decree. If all lagged depletions are not replaced by October 31, 2023, , a renewal request must be submitted to this office and the Division 2 office (please copy augmentation.coordinator@state.co.us) with the statutory fee per gravel pit (currently \$257) by **September 1, 2023**.
2. For the purposes of this SWSP, the remaining 0.76 acre-feet of lagged depletions must be replaced proportionally over the months of January - October, 2023, or as otherwise approved by the Division Engineer. An updated Table 3 that reflects replacement of the remaining 0.76 acre-feet of depletions over the period of January - October, 2023 must be submitted by **March 1, 2022**.
3. Subject to approval by the Division Engineer, the Applicant may lease or purchase additional replacement water from the sources approved in this SWSP. In addition, the Applicant must also provide a copy of a lease/purchase agreement to the State Engineer's Office and the Division Engineer for use of such additional replacement water.

4. Approval of this SWSP is for the purposes stated herein. Additional uses will be allowed only if a new SWSP is approved for those additional uses. The replacement water, which is the subject of this SWSP, cannot be sold or leased to any other entity during the term of this SWSP without prior approval of the Division Engineer.
5. Replacement water shall be made available to cover all out-of-priority depletions in time, place, and amount and shall be made available under the direction and/or approval of the Water Commissioner. Prior to use of any water leased by CWPDA, information must be provided to the Division Engineer to demonstrate that the source of water is legally available for use as a replacement source in this SWSP.
6. Conveyance loss for delivery of augmentation water is subject to assessment and modification as determined by the Division Engineer.
7. The Applicant shall provide daily accounting (including, but not limited to diversions, and river calls) on a monthly basis. The accounting must be submitted to the Division Engineer via the online submittal tool. Please contact Brian Sutton at brian.sutton@state.co.us to set up an account. Accounting must be submitted within 10 days after the end of the month for which the accounting applies. Accounting and reporting procedures are subject to approval and modification by the Division Engineer.
8. All parcels of dried up land are subject to administration pursuant to the Administration of Parcels Claimed for Augmentation Credit Agreement signed by the Colorado State Engineer and Kansas Chief Engineer in September of 2005. If any historical consumptive use credits from Deep Cut's two shares of the Rocky Ford Ditch are used in this SWSP, the Applicant must ensure that verification of dry up of the historically irrigated land is provided to the Division Engineer. Final verification of dry up must be in the form of an affidavit signed by an individual having personal knowledge of the dry up for the entire 2022 and/or 2023 irrigation seasons for each parcel of historically irrigated land. All affidavits must be provided to the Division Engineer by December 15, 2022 for 2022 dry up, and December 15, 2023 for 2023 dry up such that the final determination of augmentation credits for the irrigation season can be made along with mapping showing any revisions to the dry up acreage.
9. The approval of this SWSP does not relieve the applicant and/or landowner of the requirement to obtain a Water Court decree approving a permanent plan for augmentation or mitigation to ensure the permanent replacement of all depletions, including long-term evaporation losses and lagged depletions after the gravel mining operations have ceased. If the ponds will be backfilled, or a lined pond results after reclamation, replacement of lagged depletions must continue until there is no longer an effect on stream flow. Granting of this SWSP does not imply approval by this office of any such court application(s).
10. The State Engineer may revoke this SWSP or add additional restrictions to its operation if at any time the State Engineer determines that injury to other vested water rights has occurred or will occur as a result of the operation of this SWSP. Should this SWSP expire without renewal or be revoked prior to adjudication of a permanent plan for augmentation, all use of water under this SWSP must cease immediately and the Applicant may need to obtain and present to this office an alternate source of replacement water.

11. In accordance with amendments to Section 25-8-202-(7), C.R.S. and "Senate Bill 89-181 Rules and Regulations" adopted on February 4, 1992, the State Engineer shall determine whether or not the substitute supply is of a quality to meet requirements of use to senior appropriators. As such, water quality data or analysis may be requested at any time to determine if the water quality is appropriate for downstream water users.
12. The decision of the State Engineer shall have no precedential or evidentiary force, shall not create any presumptions, shift the burden of proof, or serve as a defense in any pending water court case or any other legal action that may be initiated concerning this plan. This decision shall not bind the State Engineer to act in a similar manner in any other applications involving other plans, or in any proposed renewal of this plan, and shall not imply concurrence with any findings of fact or conclusions of law contained herein, or with the engineering methodologies used by the Applicant.

Should you have any questions, please contact Melissa van der Poel of this office or Lonnie Spady in our Division 2 office in La Junta at (719) 384-1000.

Sincerely,



Melissa A. van der Poel, P.E.
For Jeff Deatherage, P.E.
Chief of Water Supply

Attachments: Figure 1
 August 1, 2017 Water Lease Agreement

cc: Division 2 SWSP Staff
 Lonnie Spady, District 17 Water Commissioner
 Division of Reclamation, Mining and Safety
 Jord Gertson, UAWCD



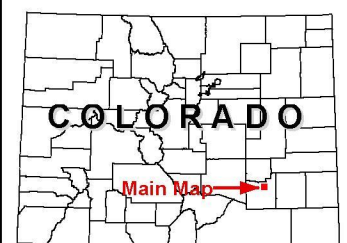
Legend

Valco Permit Boundary (Approx.)

Aerial Photo Date: 5/3/2020 Sentinel-2 Satellite Image
Data Source: CDSS, CDOT, USGS, BLM

Figure 1
Valco, Inc.
Rocky Ford East Pit - East Parcel
General Location Map

Date: 8/30/2021
Job No: 0518.00





AGRA Augmentation for Rocky Ford Valco SWSP

1 message

Dan Tucker <dan@agraco.net>

Mon, Jan 17, 2022 at 10:28 AM

To: Melissa Peterson - DNR <melissa.vanderpoel@state.co.us>

Good Morning Melissa,

I am sending this email to approve the use of AGRA Rule 14 replacement water to cover depletions resulting from the operation of Valco's Rocky Ford East Pit (RFEP) SWSP. AGRA agrees to provide up to 12 AF for the period from Nov 2021 – Oct 2023.

Please reach out with any questions.

Thanks,
Dan

Daniel Tucker, P.E.,

Water Resources Engineer,

Arkansas Groundwater and Reservoir Association

205 S. Main Street

Fowler, Colorado, 81039

719-826-2597 x 3

719-406-2852 **Cell**

dan@agraco.net

