



Christopher J. Sanchez  
Jeffrey A. Clark  
Daniel O. Niemela  
Jonathan D. George  
Kristina L. Wynne  
Austin P. Malotte  
Michael A. Saylor  
Charles E. Stanzione

July 19, 2024

Ms. Joanna Williams, Chief of Water Supply  
State Engineer's Office  
Division of Water Resources  
1313 Sherman Street, Room 818  
Denver, CO 80203

Re: Request for Martin Marietta's Bennett Mine Replacement Plan, Water Division 1, Water District 1

Dear Ms. Williams:

On behalf of our client, Martin Marietta ("MM"), this letter provides a Replacement Plan ("Plan") request for MM's Bennett Mine (DRMS Permit M2001038) pursuant to 37-90-107.5, C.R.S.

## 1. **PROJECT DESCRIPTION**

MM's Bennett Mine is a gravel pit located near Kiowa Creek, a tributary of the South Platte. The Bennett Mine is located in Section 2 of Township 3 South, Range 63 West of the 6th P.M., as shown in **Figure 1**. Per the original public notice for the mine site, mining is expected to last at this location through 2035.

In 2024 MM acquired the Bennett Mine from Albert Frei & Sons. All mined material will be dry-mined from above the ground water table. The only water depletions to the local alluvium at the Bennett Mine during this period will be from evaporation from exposed ground water in an unlined pond at the site.

Under the requested Plan, MM will replace all depletions from evaporation at the Bennett Mine by pumping water from an on-site non-tributary well (Permit No. 83410-F) directly to the unlined pond as described in more detail in Section 3 of this letter.

## **2. DEPLETIONS**

Depletion at the Bennett Mine under this Plan will only consist of evaporation from exposed ground water at the site, as shown in **Table 1**.

### **2.1 Evaporation**

#### ***Exposed Surface Area***

As seen in Figure 1, a portion of the Bennett Mine consists of an unlined pond which exposes ground water. Based on review of aerial photography, the total surface area of exposed ground water at the site is currently 7.8 acres, which according to MM, is the maximum expected surface area over the life of the mine. MM plans to actively backfill portions of the pond to reduce exposed ground water surface area over time. The 7.8 acres is shown in **Figure 1**.

All evaporation from the exposed ground water surface area will be replaced under this Plan as shown in **Table 1**. Section 11 in C.R.S. 37-90-137 specifies any ground water exposed at a gravel pit requires a separate well permit. The well permit application for the Bennett Mine has been submitted concurrently (attached in **Appendix A**) with this Plan request.

#### ***Gross and Net Evaporation***

The NOAA Technical Report NWS 33, Evaporation Atlas for the Contiguous 48 United States (TR-NWS 33) was used to determine the gross evaporation at the Bennett Mine. According to TR-NWS 33, the total average annual gross evaporation at the site is equal to 46.86 inches, or 3.91 feet. The total annual gross evaporation is distributed monthly according to Senate Bill 89-120<sup>1</sup>, as shown in Column 2 of **Table 1**.

MM will be required to cover the depletions to the local Kiowa Creek alluvium that result from net evaporation from the exposed area. Net evaporation is equal to the gross evaporation less the effective precipitation, which is equal to 70% of the average monthly precipitation. Average monthly precipitation at the Bennett Mine is based upon the average precipitation at the BYERS 5 ENE, CO (USC00051179) NOAA weather station for the 2004-2023 time period, which

---

<sup>1</sup> Senate Bill 89-120 distributes gross evaporation for elevations below 6,500 feet as follows: November: 4%, December: 3%, January: 3%, February: 3.5%, March: 5.5%, April: 9%, May: 12%, June: 14.5%, July: 15.0%, August: 13.5%, September 10%, October 7%.

averages 15.84 inches per year. As described above, it is expected that a maximum of 7.8 acres will be exposed year-round. The resulting maximum annual net evaporative depletion is 23.25 acre-ft as shown in Column 6 of **Table 1**.

## **2.2 Aggregate Production**

Under this Plan, MM will only mine material which is above the natural ground water level at the site. Accordingly, no water will be depleted from the alluvium due to aggregate production.

## **2.3 Dust Suppression**

All water used for dust suppression at the site is pumped from the non-tributary well on-site. Since the well is constructed in the Lower Arapahoe aquifer, dust suppression water use will not deplete the local Kiowa Creek alluvium, and therefore does not need to be replaced under this Plan. The use of water for dust suppression at the Bennett Mine will occur throughout the life of the mine and per MM projections, the total volume expected to be used for dust suppression at the site will be 3 ac-ft annually. All water pumped from the well for dust suppression purposes is measured and recorded separately from water pumped for replacement under this plan.

## **2.4 Total Depletions**

Total maximum depletions associated with net evaporation at the site are projected to be 23.25 ac-ft, as seen in Column 1 of **Table 2**.

## **3. REPLACEMENT SOURCE**

The replacement source for the Bennett Mine is a non-tributary well located within the Kiowa-Bijou Designated Basin and is permitted under Permit No. 83410-F. The well permit has been attached in **Appendix B**. Pursuant to the Findings and Order of the Colorado Ground Water Commission dated June 27, 2019, for determination of Water Right No. 3696-BD (“the Determination”; attached in **Appendix B**), the well pumps from the Lower Arapahoe aquifer and is permitted for pumping of 17.6 ac-ft annually on average with a maximum pumping rate of 100 gpm. Water will be pumped from the well and delivered directly to the unlined pond to replace all evaporative depletions associated with the Bennett Mine.

Initially, pumping for replacement of net evaporation will exceed the 17.6 ac-ft average annual pumping volume. Per paragraph 18 of the Determination:

“The allowable maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does

not exceed the product of the number of years since the well permit date times the allowed average annual amount of withdrawal.”

The well was permitted on July 23, 2019. Annual metered pumping totals from the well are summarized in the table below:

Year	Volume Pumped (ac-ft)	Annual Average Pumping (ac-ft)
2019	0.00	0.00
2020	1.88	0.94
2021	2.69	1.52
2022	4.43	2.25
2023	3.49	2.50

As shown in the table above, historical pumping from the well since 2019 has averaged 2.50 ac-ft annually, well below the 17.6 ac-ft permitted value. Under this plan, while the ground water surface area remains at 7.8 acres, MM projects the need for 23.25 ac-ft/yr of pumping from the well to replace evaporative depletions and 3 ac-ft/yr of pumping for dust suppression. As shown in the table below, MM can pump a total of 26.25 ac-ft/yr from the well through 2033 and still keep the average annual pumping below the 17.6 ac-ft permitted for the well. This means that as long as MM has kept the maximum surface area below 7.8 acres and reduced the surface area to 6.2 acres by the start of 2034, 4.93 acres by the start of 2035, and 4.89 acres thereafter, pumping from the well will be sufficient to meet all projected replacement requirements and dust suppression pumping from the well. .



Year	Volume Pumped (ac-ft)	Annual Average Pumping (ac-ft)
2019	0.00	0
2020	1.88	0.94
2021	2.69	1.52
2022	4.43	2.25
2023	3.49	2.50
2024	11.34	3.97
2025	26.25	7.15
2026	26.25	9.54
2027	26.25	11.40
2028	26.25	12.88
2029	26.25	14.10
2030	26.25	15.11
2031	26.25	15.97
2032	26.25	16.70
2033	26.25	17.34
2034	21.50	17.60
2035	17.70	17.60

Notes:

Values for 2024 through 2035 are projected.

The 2024 pumping value is based on August-December pumping projections added to 1.52 ac-ft of pumping recorded through July 1, 2024.

As shown in Column 3 of **Table 2**, the pumping from the well will be sufficient to replace the maximum annual depletions from the Bennett Mine. The maximum monthly pumping volume to the unlined pond from the well will be 3.52 ac-ft, as shown in Column 2 of **Table 2**, and the maximum daily pumping volume to the unlined pond will be 0.12 ac-ft (3.48 ac-ft in June divided by 30 days).

#### 4. **OPERATION OF REPLACEMENT PLAN**

##### 4.1 **SWPS Operations**

All aggregate mining under this Plan will occur above the ground water table. Depletions from the mine will only be from evaporation of exposed ground water at the site. MM will replace all

evaporative depletions from the mine using the permitted non-tributary well on site, which will be pumped directly to the unlined pond to replace evaporation losses. The maximum surface area of exposed ground water at the site is 7.8 acres and MM will work to backfill the pond over the life of the mine. MM will measure and record the total exposed surface area of the pond on a monthly basis.

In order to backfill the pond, it may be necessary for MM to periodically dewater the pond. In the event that dewatering is required, MM will submit a revised replacement plan which addresses dewatering impacts to the local alluvium and the associated replacement requirements.

#### **4.2 Measurement and Accounting**

MM will track the total area of exposed ground water and meter all well pumping for dust suppression and replacement water use at the Bennett Mine. The accounting forms will be substantially the same as **Tables 1 through 3**, with the actual depletion and replacement volumes shown for each month instead of the projections shown in this Plan request.

#### **4.3 Mine Well Permit**

Because the Bennett Mine will expose ground water, we have submitted a well permit application to the State Engineer's Office concurrently with this Plan request. The application has been attached in **Appendix A**.

#### **4.4 Long-Term Augmentation**

A bond has been obtained for the Bennett Mine for \$487,175 through the Colorado Division of Reclamation, Mining and Safety.

### **5. TERMS AND CONDITIONS**

1. The total surface area of the ground water exposed at the Bennett Mine will not exceed 7.8 acres through 2033 and will be reduced to a maximum surface area of 6.2 acres by 2034, 4.93 acres by 2035, and 4.89 acres thereafter.
2. All pumping for dust suppression will be separately metered and included in the monthly accounting records.
3. The maximum total evaporative depletions at the Bennett Mine under the Plan are projected to be 23.25 ac-ft and will not exceed the replacement supply at the site.
4. All evaporative depletions will be replaced by pumping replacement from the Bennett Well (Permit No. 83410-F) directly to the unlined pond.

Ms. Joanna Williams

July 19, 2024

Page 7

5. MM will maintain monthly accounting records for the Bennett Mine and will submit accounting to the Division Engineer on an annual basis.

6. For matters related to this Plan please contact:

David Heintz

BBA Water Consultants, Inc.

333 West Hampden Avenue, Suite 1050

Englewood, CO 80110

303-806-8952


[dheintz@bbawater.com](mailto:dheintz@bbawater.com)

Pursuant to 37-90-107.5, C.R.S. payment information for the \$100 fee associated with a Plan application (GWS-69 form is attached in **Appendix C**) for the Bennett Mine will be made to the Records Section shortly after submittal of this request letter and application.

Please feel free to give us a call if you have any questions or need any additional information.

Very truly yours,

BBA Water Consultants, Inc.



David M. Heintz, P.E.

Project Manager – Senior Water Resources Engineer

DMH/jeb

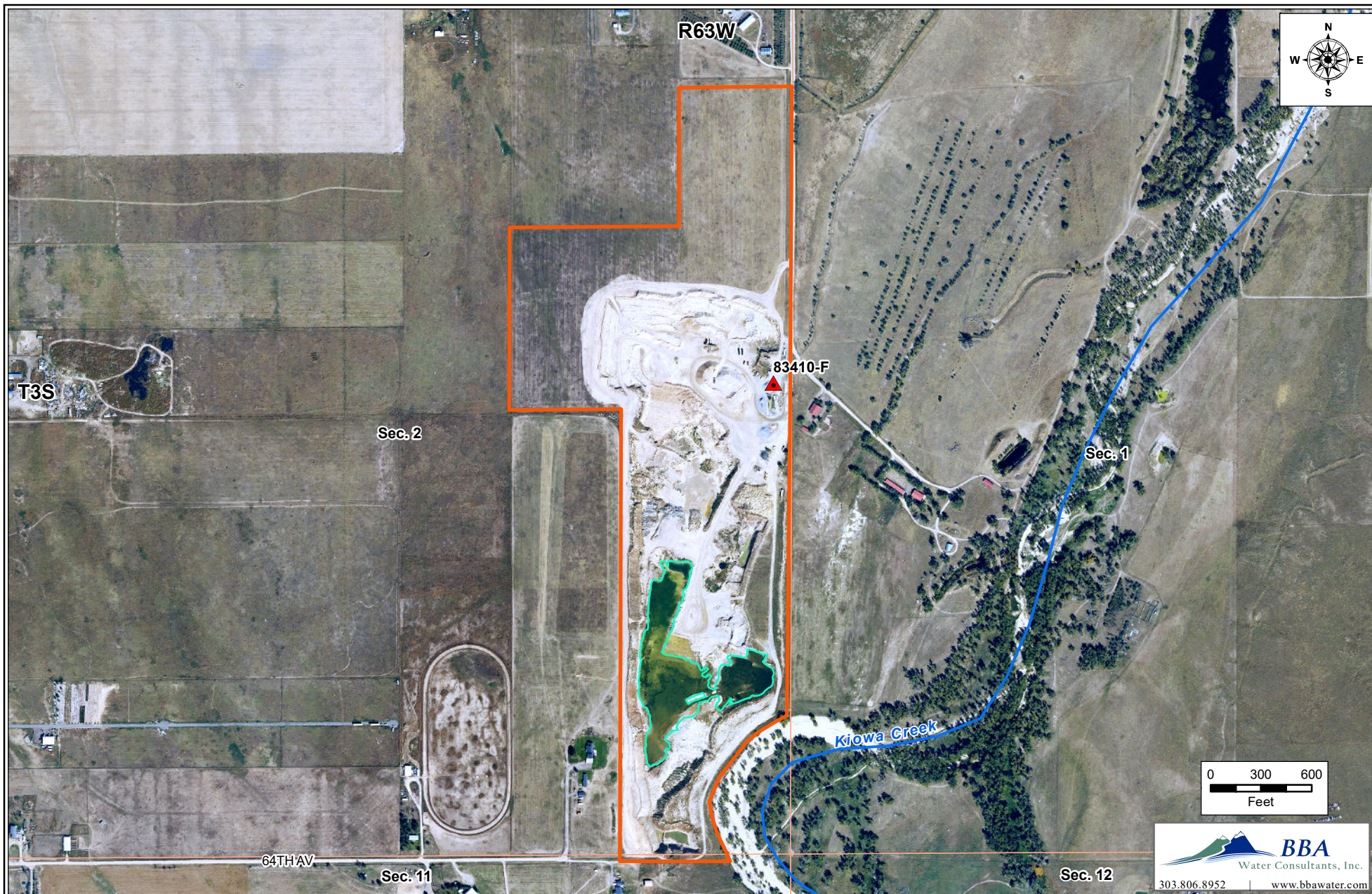
cc: Joel Bolduc

James Sharn

Enclosures

1204.19





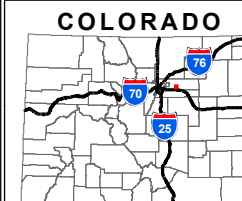
**Figure 1**  
**Martin Marietta**  
**Bennett Mine**  
**General Location Map**

Date: 7/18/2024 | Job No. 1204.19

**Legend**

- ▲ Well Permit
- Bennett Pit Permit Boundary
- Exposed Ground Water Surface Area

Data Source: CDSS, CDOT, USGS, BLM  
 Background Image: I-1163, 1:250,000, USGS: 1981





**Table 1**  
**Martin Marietta**  
**Bennett Mine Replacement Plan**  
**Depletions**

Month	Percent of Annual Evaporation (%) (1)	Gross Evaporation Rate (feet) (2)	Gross Evaporation (acre-feet) (3)	Average Precipitation (inches) (3)	Effective Precipitation (feet) (4)	Net Evaporation (feet) (5)	Maximum Net Evaporation Depletions (acre-feet) (6)
Aug	13.5%	0.53	4.11	1.96	0.11	0.41	3.22
Sep	10.0%	0.39	3.05	1.13	0.07	0.32	2.53
Oct	7.0%	0.27	2.13	1.01	0.06	0.21	1.67
Nov	4.0%	0.16	1.22	0.60	0.04	0.12	0.95
Dec	3.0%	0.12	0.91	0.53	0.03	0.09	0.67
Jan	3.0%	0.12	0.91	0.40	0.02	0.09	0.73
Feb	3.5%	0.14	1.07	0.50	0.03	0.11	0.84
Mar	5.5%	0.21	1.68	1.10	0.06	0.15	1.17
Apr	9.0%	0.35	2.74	1.77	0.10	0.25	1.94
May	12.0%	0.47	3.66	2.47	0.14	0.32	2.53
Jun	14.5%	0.57	4.42	2.06	0.12	0.45	3.48
Jul	15.0%	0.59	4.57	2.31	0.13	0.45	3.52
Totals	100.0%	3.91	30.46	15.84	0.92	2.98	23.25

Notes:

(1) Monthly percentages determined in General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits for elevations below 6,500 feet.

(2) NOAA Technical Report NWS 33, Evaporation Atlas for the Contiguous 48 United States notes a total annual gross evaporation of 46.86 inches.

(3) Based upon the NOAA BYERS5 ENE (USC00051179) climate station for the time period 2004-2023.

(4) Effective precipitation = (3) x 0.7/12.

(5) Net evaporation = (2) - (4).

(6) Evaporative consumptive use = (5) x total exposed surface area which is equal to the maximum area of 7.8 acres.

**Table 2**  
**Martin Marietta**  
**Bennett Mine Replacement Plan**  
**Water Balance**

Month	Maximum Depletions (acre-feet) (1)	Replacement from Well Permit No. 83410-F (acre-feet) (2)	Net Effect to Alluvium (acre-feet) (3)
Aug	3.22	3.22	0.00
Sep	2.53	2.53	0.00
Oct	1.67	1.67	0.00
Nov	0.95	0.95	0.00
Dec	0.67	0.67	0.00
Jan	0.73	0.73	0.00
Feb	0.84	0.84	0.00
Mar	1.17	1.17	0.00
Apr	1.94	1.94	0.00
May	2.53	2.53	0.00
Jun	3.48	3.48	0.00
Jul	3.52	3.52	0.00
Total	23.25	23.25	0.00

Notes:

- (1) Total lagged depletions calculated in Column 6 of Table 1
- (2) Well water pumped from well Permit No. 83410-F to unlined pond to replace evaporation.
- (3) Equal to (1) - (2).



## **APPENDIX A**

Form No. GWS-27 01/2020	COLORADO DIVISION OF WATER RESOURCES DEPARTMENT OF NATURAL RESOURCES 1313 Sherman St., Ste 821, Denver, Colorado 80203 Phone: (303) 866-2223 DWR Web: <a href="http://dwr.colorado.gov">dwr.colorado.gov</a> Email: <a href="mailto:dwrpermitsonline@state.co.us">dwrpermitsonline@state.co.us</a>	For Office Use only
REVIEW INSTRUCTIONS PRIOR TO COMPLETING FORM		
<b>GRAVEL PIT WELL PERMIT APPLICATION</b>		
1.	<b>TYPE OF PERMIT</b> <input type="checkbox"/> NEW PIT(S) <input checked="" type="checkbox"/> PIT(S) EXIST, CONSTRUCTED AFTER DEC. 31, 1980	
2.	<b>APPLICANT INFORMATION</b> NAME(S) <u>Martin Marietta c/o John Anderson</u> Mailing Address <u>1627 Cole Blvd., Ste. 200</u> City, St. Zip <u>Lakewood, CO 80401</u> Phone (w/ area code) <u>(720)-245-6410</u> Email: <u>james.sham@martinmarietta.com</u>	
3.	<b>CONSULTANT/ATTORNEY/OPERATOR CONTACT</b> (If different than #2) NAME(S) <u>BBA Water Consultants, Inc.</u> Mailing Address <u>333 W. Hampden Ave., Suite 1050</u> City, St. Zip <u>Englewood, CO 80110</u> Phone (w/ area code) <u>(303)-806-8952</u> Email: <u>dheintz@bbawater.com</u>	PIT NAME <u>Bennett Mine</u>  DRMS NO. <u>M2001038</u>
4.	<b>GENERAL LOCATION OF PIT(S):</b> COUNTY <u>Adams</u> <u>SE 1/4 NE 1/4, Sec. 2 Twp. 3</u> <input type="checkbox"/> N. <input checked="" type="checkbox"/> S., Range <u>63</u> <input type="checkbox"/> E. <input checked="" type="checkbox"/> W. <u>6</u> P.M.	
5.	Estimated maximum water surface to be exposed: <u>7.8</u> Acres. Number of Pits <u>1</u> .	
6.	Estimated depth of pit(s) <u>60</u> Ft. Estimated depth to groundwater <u>20</u> Ft.	
7.	Estimated date to expose groundwater <u>07/01/2024</u> ; date to complete mining <u>12/31/2035</u>	
8.	<b>ATTACHMENTS:</b> (Check which have been attached.) (a) <input checked="" type="checkbox"/> Scaled map of pit area with range, township, & section clearly identified (REQUIRED). (b) <input type="checkbox"/> Copy of the reclamation permit, if applicable. (c) <input type="checkbox"/> Copy of pre 1/15/89 water conservancy dist. or water user assoc. augmentation agreement, if applicable. (d) <input checked="" type="checkbox"/> Copy of proposed substitute water plan or augmentation plan application, if applicable. (e) <input type="checkbox"/> Copy of court approved augmentation plan, if applicable. Case No. _____ (f) <input type="checkbox"/> Other _____	
9.	Detailed description of any use, other than evaporation, and method of diversion, rate of diversion, and annual amount of diversion of any water withdrawn from the pond. <u>None</u>	
10.	Will dewatering occur within the DRMS permit boundary <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
11.	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.]	
Sign or enter name(s) of submitter 		If signing print name & title <u>John Anderson VP/GM RMR</u>
		Date (mm/dd/yyyy) <u>07/19/2024</u>
For Office Use only		
Court Case No. _____ Div. _____ Co. _____ WD _____ Basin _____ MD _____ Use _____		





## **APPENDIX B**



**ORIGINAL PERMIT APPLICANT(S)**

HENDERSON AGGREGATE LTD

**APPROVED WELL LOCATION**

Water Division: 1      Water District: 1  
Designated Basin:      KIOWA-BIJOU  
Management District:      NORTH KIOWA-BIJOU  
County:      ADAMS  
Parcel Name:      N/A  
Physical Address:      55000 E 72ND AVE BENNETT, CO 80102  
SE 1/4 NE 1/4 Section 2 Township 3.0 S Range 63.0 W Sixth P.M.

**UTM COORDINATES (Meters, Zone:13, NAD83)**

Easting:      551709.0      Northing:      4407773.0

**PERMIT TO CONSTRUCT A NEW WELL**

**ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT**

**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 this permit does not ensure 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(7) and the Findings and Order of the Colorado Ground Water Commission dated June 27, 2019, for Determination of Water Right No. 3696-BD. In the event the well is not operated in accordance with the conditions of this determination, it will be subject to administration, including orders to cease diverting water.
- 4) The pumping rate of this well shall not exceed 100 GPM (as requested).
- 5) The annual withdrawal of ground water from this well shall not exceed 17.6 acre-feet, subject to the total annual withdrawal limitations and conditions as specified by the above referenced Order of the Commission.
- 6) The use of ground water from this well is limited to the following beneficial uses: domestic, commercial, industrial, irrigation, stock watering and replacement purposes. The place of use shall be limited to the 129.15 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw water from only the Lower Arapahoe aquifer. The top of the Lower Arapahoe aquifer is located approximately 545 feet below the ground surface. The bottom of the Lower Arapahoe aquifer is located approximately 760 feet below the ground surface. Plain casing must be installed and grouted to prevent the diversion of water from other aquifers and the movement of water between aquifers.
- 8) The entire length of the hole shall be geophysically logged as required by Rule 9 of the Statewide Nontributary Ground Water Rules prior to installing casing.
- 9) The owner shall mark the well in a conspicuous place with the well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 10) A totalizing flow meter or Commission approved measuring device must be installed on this well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the North Kiowa-Bijou Ground Water Management District and the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.
- 12) This well shall be located within 200 feet of the location specified on this permit. This well shall not be located within 600 feet of another large-capacity well completed in the Arapahoe aquifer.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within the North Kiowa Bijou Ground Water Management District where local District Rules apply which may further limit the withdrawal and use of designated ground water as authorized under this permit.

**WELL PERMIT NUMBER 83410-F**

**RECEIPT NUMBER 3692395**

NOTE: This well will be completed in a Type I aquifer overlain by multiple confining layers and must be constructed with solid steel casing and grouted in accordance with Well Construction Rule 10.4.5.2 (2 CCR 402-2).



Date Issued: 7/23/2019

Expiration Date: 7/23/2020

Issued By IOANA COMANICIU

**PERMIT HISTORY**

01-25-2024 CHANGE IN OWNER NAME/MAILING ADDRESS. CHANGED TO ALBERT FREI & SONS, INC., A COLORADO CORPORATION (MICHELLE A. STEIN)

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN THE  
KIOWA-BIJOU DESIGNATED GROUND WATER BASIN

---

DETERMINATION NO.: 3696-BD

AQUIFER: Lower Arapahoe

APPLICANT: Henderson Aggregate, Ltd.

---

In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Henderson Aggregate, Ltd. (hereinafter "Applicant") submitted an application for determination of water right to designated ground water from the Lower Arapahoe Aquifer.

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on February 26, 2019.
2. The Applicant requests a determination of right to designated ground water in the Lower Arapahoe Aquifer (hereinafter "Aquifer") underlying 129.15 acres, generally described as a portion of the E1/2 of Section 2, Township 3 South, Range 63 West of the 6th P.M, in Adams County. According to a signed Ownership Statement dated February 13, 2019, attached hereto as Exhibit A, the Applicant owns the 129.15 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Kiowa-Bijou Designated Ground Water Basin and within the North Kiowa Bijou Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic, commercial, industrial, irrigation, stock watering and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 129.15 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 129.15 acres of Overlying Land claimed by the applicant is 1,760 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.

- b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 80 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 17.6 acre-feet per year.
9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land has been previously allocated or permitted for withdrawal.
10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable Aquifer may be less than the one hundred years upon which the amount of water in the Aquifer is allocated, due to anticipated water level declines.
12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the Aquifer underlying the land claimed by the Applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the Underlying Ground Water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. Pursuant to the Rules, no more than 98% of the amount of the Underlying Ground Water withdrawn annually shall be consumed.
13. On April 1, 2019, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the North Kiowa Bijou Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
14. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Eastern Colorado News newspaper on April 5, 2019 and April 12, 2019. No objections to the application were received within the time limit set by statute.

#### **ORDER**


In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Lower Arapahoe Aquifer underlying 129.15 acres of land, generally described as a portion of the E1/2 of Section 2, Township 3 South, Range 63 West of the 6th P.M, further described in Exhibit A, is approved subject to the following conditions:

15. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 17.6 acre-feet.
16. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 1,760 acre-feet.
17. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
18. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
19. The Applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
20. No more than 98% of the allowed amount of Underlying Ground Water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the underlying ground water withdrawn is being consumed.
21. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic, commercial, industrial, irrigation, stock watering and replacement. The place of use shall be limited to the above described 129.15 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission. The ground water right determined herein is located within the North Kiowa Bijou Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated ground water.
22. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
23. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
  - a. The wells must be located on the above described 129.15 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.

- c. The wells must be constructed to withdraw water from only the Lower Arapahoe Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission and the North Kiowa Bijou Ground Water Management District upon request.
  - f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
24. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 129.15 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
25. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Dated this 27th day of June, 2019.

By:   
Kevin G. Rein, P.E.  
Executive Director  
Colorado Ground Water Commission

  
Keith Vander Horst, P.E.  
Chief of Water Supply, Basins

Prepared by: idc  
F&O3696-BD.doc



Form GWS-1 (08/2016)

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES  
1313 Sherman St, Room 821, Denver, CO 80203  
Phone (303) 866-3581, [www.water.state.co.us](http://www.water.state.co.us)

**NONTRIBUTARY GROUND WATER LANDOWNERSHIP STATEMENT**

AQUIFER: Lower Arapahoe

I (we) (Please Print) Henderson Aggregate, Ltd.  
claim and say that I (we) am (are) the owner(s) of the following described property consisting of  
129.15 acres in the County of Adams, State of Colorado,  
as evidenced by the attached copy of a deed, recorded in the county (or counties) in which the  
land is located. (insert the property's legal description)

Parcel Number: 0181500000337  
35.95 acres located in part of NE1/4 Sec. 2, T3S, R63W  
(See Attachment for full legal description)

Parcel Number: 0181502100002  
25.31 acres located in part of NE1/4 Sec. 2, T3S, R63W  
(See Attachment for full legal description)

Parcel Number: 0181500000401  
67.89 acres located in part of E1/2 Sec. 2, T3S, R63W  
(See Attachment for full legal description)

RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

I (we) further claim and say that the right to withdraw the ground water in the aquifer underlying  
the above described land has not been reserved by another, nor has consent been given to  
another for the right to its withdrawal.

**NOTE:** A completed "Nontributary Landownership or Consent Verification of Notice" form  
(GWS-43) must also be provided for all applications submitted pursuant to C.R.S. 37-90-  
137(4) outside of a Designated Ground Water Basin.

Further, I (we) claim and say that I (we) have read the statement made herein; know the  
contents thereof; and that the same 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.

  
Signature

2/13/19  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

.....  
Type or print neatly in black ink. This form may be reproduced by photocopy or word  
processing means. See additional instructions on back.



**Attachment to Form GWS-01**  
**Application for Determination of Water Right - Lower Arapahoe Aquifer**  
**Henderson Aggregate, Ltd.**

RECEIVED  
FEB 26 2019  
WATER RESOURCES  
STATE ENGINEER  
COLO

Legal description of property<sup>1</sup>:

Parcel Number: 0181500000337

SECT,TWN,RNG:2-3-63 DESC: PART OF THE NE4 OF SEC 2 DESC AS FOLS BEG AT N4 COR SEC 2 TH N 89D 32M 15S E 1971/69 FT TO A PT 675/68 FT W OF NE COR SD NE4 SD PT BEING THE TRUE POB TH S 00D 02M 00S E 2616/94 FT TO A PT ON S LN SD NE4 TH N 89D 31M 50S E 166/45 FT TO A PT 492/71 FT W OF E4 COR SD SEC TH N 00D 02M 00S W 449/18 FT TO A PT 2167/74 FT S OF N LN NE4 TH N 89D 31M 50S E 495/55 FT TO E LN NE4 TH N 00D 19M 42S E 2167/83 FT TO NE COR NE4 TH S 89D 32M 15S W ALG N LN NE4 675/68 FT TO THE TRUE POB EXC E 30 FT THEREOF AND EXC RD 35/95A

Parcel Number: 0181502100002

SECT,TWN,RNG:2-3-63 DESC: PARCEL A (AS SURVEYED) A PORT OF LAND LOCATED IN THE NE4 OF SEC 2 DESC AS FOLS COMMENCING AT THE N 1/4 COR OF SD SEC 2 TH ON THE N LN OF THE NE 1/4 OF SD SEC 2 THE BASIS ON WHICH ALL BRNGS HEREON ARE BASED N 89D 32M 15S E 974/98 FT TH S 00D 00M 21S E 1520/74 FT TO THE POB TH N 89D 32M 37S E 1004/47 FT TH S 00D 09M 39S E 1096/11 FT TH ON THE S LN OF THE NE4 OF SD SEC 2 S 89D 31M 58S W 1007/44 FT TH N 00D 00M 21S W 1096/32 FT TO THE POB AKA PT OF NE4 SEC 2 BEG AT N4 COR TH E 972/95 FT TO TRUE POB TH CONT E 1165/19 FT TO PT 509/23 FT W OF NE COR NE4 TH S // WITH W LN SEC 2 2616/92 FT TO PT ON E/W C/L SEC 2 SD PT BEING 492/71 FT W OF E4 COR TH W ALG E/W C/L 1165/19 FT TO PT 981/22 FT E OF CEN SEC 2 TH N 2617/06 FT TO POB EXC PARCS 25/310A

Parcel Number: 0181500000401

BENNET SAND AND GRAVEL PIT #2 M-2001-038 SECT,TWN,RNG:2-3-63 DESC: PARCEL B (AS SURVEYED) PARCEL IN THE E2 OF SEC 2 DESC AS FOLS BEG AT THE NE 1/4 COR OF SD SEC 2 FROM WHENCE THE N 1/4 COR OF SD SEC 2 BRS S 89D 32M 15S W 2650/83 FT AND ON WHICH ALL BRNGS HEREON ARE BASED TH ON THE E LN OF THE NE4 OF SD SEC 2 S 00D 11M 26S W 2617/01 FT TO THE POB TH ON THE E LN OF THE SE4 OF SD SEC 2 S 00D 29M 37S W 2643/60 FT TH ON THE S LN OF THE SE4 OF SD SEC 2 S 89D 31M 48S W 984/07 FT TH N 00D 01M 19S W 2643/36 FT TH ON THE S LN OF THE NE4 OF SD SEC 2 N 89D 31M 58S E 514/88 FT TH N 00D 10M 26S W 449/18 FT TH N 89D 32M 01S E 465/84 FT TH ON THE W LN OF THE LAND DESC IN B3927 P224 A LN 30 FT W OF AND // TO THE E LN OF SD NE4 OF SD SEC 2 S 00D 11M 26S W 449/20 FT TH ON THE S LN OF THE NE4 OF SD SEC 2 N 89D 31M 58S E 30 FT TO THE POB TOG WITH PARCEL C (AKA PROVOST RD EXT)THE E 30 FT OF THE NE4 OF SEC 2 EXC THAT PORT CONVEYED TO COUNTY OF ADAMS (REC NO 2016000044789) TOG WITH PARCEL D (AKA E 64TH AVE EXT) THE N 30 FT OF THE E2 NE4 OF SEC 11/3/63 67/89A

<sup>1</sup> Legal descriptions obtained from Adams County Assessor Public Records and Maps



**Legend**

-  Approximate Property Lines (~129 Acres)  
 Township Lines  
 Section Lines

RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

Exhibit A  
3696-BD  
Page 3 of 3

35 36

T 2 S, R 63 W

T 3 S, R 63 W

2 1



0 800 1,600 Feet

Aerial Imagery from ESRI

**DEERE & AULT**  
CONSULTANTS, INC.

**HENDERSON AGGREGATE, LTD.**  
**Determination of Water Right - Location Map**

JOB NO: 0247.025.00

SCALE: 1 inch = 800 feet

FIGURE NO.

**1**



**DEERE & AULT**  
CONSULTANTS, INC.

February 21, 2019

Mr. Kevin Rein, State Engineer  
Colorado Division of Water Resources  
1313 Sherman Street, Room 818  
Denver, Colorado 80203

RECEIVED  
FEB 26 2019  
WATER RESOURCES  
STATE ENGINEER  
COLO

**Re: Applications for Determination of Water Right  
Kiowa-Bijou Designated Ground Water Basin**

Dear Mr. Rein:

On behalf of Henderson Aggregate, Ltd., enclosed are two applications for a Determination of Water Right Within a Designated Ground Water Basin for the Upper Arapahoe and Laramie-Fox Hills Aquifers underlying a 129.15-acre property located in part of the E½ of Section 2, Township 3 South, Range 63 West, 6<sup>th</sup> P.M. The property is located within the Kiowa-Bijou Designated Ground Water Basin.

Enclosed is a check for \$120 to cover the two \$60 filing fees. If you have any questions concerning these applications, please call.

Sincerely yours,

DEERE & AULT CONSULTANTS, INC.



Nathan D. Phelps, P.E.  
Project Engineer

NDP/ndp

Enclosures

Q:\0247 Albert Frei & Sons\0247.025 Bennett Denver Basin Well\NT Well Permit Application\2019-02-21 NDP to DWR re Det of WR Application in 2-3-63.docx

Form no. COLORADO GROUND WATER COMMISSION  
GWS-53 DIVISION OF WATER RESOURCES  
(9/2018) DEPARTMENT OF NATURAL RESOURCES  
1313 Sherman St, Room 821, Denver, CO 80203  
(303) 866-3581, [www.water.state.co.us](http://www.water.state.co.us), [dwrpermitsonline@state.co.us](mailto:dwrpermitsonline@state.co.us)

RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

## APPLICATION FOR DETERMINATION OF WATER RIGHT WITHIN A DESIGNATED GROUND WATER BASIN

This application may only be used to apply for a determination of right to ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifer underlying land area located within a Designated Ground Water Basin pursuant to Section 37-90-107(7), C.R.S. A separate form must be used for each aquifer. Review the instructions on the reverse of this form. This form must be completed, signed, dated and submitted to the Ground Water Commission with a non-refundable \$60 filing fee. Type or print in black ink.

<b>1. APPLICANT INFORMATION</b>			
Name of Applicant Henderson Aggregate, Ltd.			
Mailing Address P.O. Box 700	City Henderson	State CO	Zip Code 80640
Telephone Number (include area code) (303) 289-1837	Email bfrei@albertfreiansons.com		
<b>2. AQUIFER:</b> Lower Arapahoe	<b>3. AMOUNT OF OVERLYING LAND:</b> acres 129.15		
<b>4. OVERLYING LAND OWNERSHIP OR UNDERLYING WATER RIGHT OWNERSHIP DOCUMENTATION – A</b> Nontributary Ground Water Landownership Statement (form GWS-1) or Nontributary Ground Water Consent Claim (form GWS-3A) that includes a description of the overlying land must be submitted as an attachment to the application.			
<b>5. EXISTING WELLS</b> – Are there any wells located on the overlying land? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>  If yes: 1) Provide a complete list of all wells located on the overlying land as an attachment to this application; and 2) For all wells producing from the subject aquifer indicate whether the well will continue to operate under its existing well permit or water right, or whether the well is to be re-permitted to withdraw the ground water being allocated by the Determination of Water Right.			
<b>6. AMOUNT OF GROUND WATER</b> – Indicate one of the following, being the amount of ground water requested to be allocated for subsequent well permitting and withdrawal pursuant to the determination, on the basis of an aquifer life of 100 years. If less than the maximum available allocation is requested, an attachment must be provided identifying how the excluded water will be allocated (i.e. distributed) beneath the overlying land.  <input checked="" type="checkbox"/> Maximum allocation <input type="checkbox"/> Maximum allocation excluding _____ acre-feet annually <input type="checkbox"/> Specific allocation of _____ acre-feet annually			
<b>7. TYPE OF USE</b> – Description of intended beneficial uses of the ground water  Commercial, industrial, irrigation, domestic, stock, <del>augmentation</del> , and replacement			
<b>8. PLACE OF USE</b> – The intended place of use of the ground water shall be considered to be the overlying land area claimed and described in Items 3 and 4 above, unless an attachment provides a legal description of an additional and/or alternate place of use.			
<b>9. SIGNATURE</b> – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.  Signature:  Date: 2/13/19  Print name and title: Albert Frei Jr./operating manager			
FOR OFFICE USE ONLY		Transaction #	3690742 B
		Date	2/26/2019 1:37:40 PM
		Transaction Total:	\$120.00
		CHECK #14619	\$120.00
DIV <u>1</u> CO <u>  </u> WD <u>1</u> BASIN <u>02</u> MD <u>07</u>			

**5. Existing Wells**  
**Application for Determination of Water Right - Lower Arapahoe Aquifer**  
**Henderson Aggregate, Ltd.**

Section 2, Township 3S, Range 63W				
Permit No.	Location	Depth	Use	Aquifer
119945	NE¼NE¼	300	Domestic, Stock	--

RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO



RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

After Recording, Return to:  
Berg Hill Greenleaf Russell LLP  
c/o Becky Jo Rigo  
1712 Pearl Street, Boulder, CO 80302

State Documentary Fee

Date

\$ 52.50

PERSONAL REPRESENTATIVE DEED  
(Testate Estate)

THIS DEED made by Julie A. Morse and Garry W. Heitzman, as Co-Personal Representatives of the Estate of Wayne Earl Heitzman, a/k/a Wayne E. Heitzman, aka Wayne Heitzman, deceased, Grantors, to Henderson Aggregate, Ltd., a Colorado Limited Partnership, with an address of P.O. Box 700, Henderson, Colorado 80640, in the County of Adams, State of Colorado.

WHEREAS, the Last Will and Testament of the above-named decedent was made and executed in the lifetime of the decedent, and is dated March 10, 1999, which Will was duly admitted to informal probate on October 26, 2017, by the District Court in and for Adams County, State of Colorado, Probate No. 17PR30685;

WHEREAS, Grantors were duly appointed Co-Personal Representatives of said Estate on October 26, 2017, and are now qualified and acting in said capacity.

NOW, THEREFORE, pursuant to the powers conferred upon Grantors by the Colorado Probate Code, Grantors do hereby sell, convey, assign, transfer and set over unto said Grantee in consideration of the sum of Five hundred seventy-five thousand dollars and 00/100 Dollars (\$575,000.00) paid by Grantee, the following described real property situate in the County of Adams, State of Colorado:

Refer to Exhibit A, attached hereto and made a part hereof;

also known by street and number as: 49950 E. 72<sup>nd</sup> Avenue, Bennett, Colorado 80102

With all appurtenances, subject to general property taxes for the year 2018, and those items set forth on Exhibit B attached and made a part hereof.

As used herein, the singular includes the plural and the plural the singular.

Executed: 5-9, 2018

Julie A. Morse  
Julie A. Morse, Co-Personal Representative of the Estate  
of Wayne Earl Heitzman, aka Wayne E. Heitzman, aka  
Wayne Heitzman,  
Deceased

Executed: 5-9, 2018

Garry W. Heitzman  
Garry W. Heitzman, Co-Personal Representative of the  
Estate of Wayne Earl Heitzman, aka Wayne E.  
Heitzman, aka Wayne Heitzman,  
Deceased

STATE OF COLORADO )

COUNTY OF Jefferson

The foregoing instrument was acknowledged before me this 9 day of May, 2018, by Julie A. Morse as Co-Personal Representatives of the Estate of Wayne Earl Heitzman, aka Wayne E. Heitzman, aka Wayne Heitzman, Deceased.

Witness my hand and official seal.  
My commission expires: 11-4-19

**G HERRERA**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
NOTARY ID 20054036757  
My Commission Expires November 4, 2019

STATE OF COLORADO )

COUNTY OF Jefferson

The foregoing instrument was acknowledged before me this 9 day of May, 2018, by Garry W. Heitzman as Co-Personal Representatives of the Estate of Wayne Earl Heitzman, aka Wayne E. Heitzman, aka Wayne Heitzman, Deceased.

Witness my hand and official seal.  
My commission expires: 11-4-19

**G HERRERA**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
NOTARY ID 20054036757  
My Commission Expires November 4, 2019

Notary Public



705 745 43

EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE NORTHEAST ONE-QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, ADAMS COUNTY, COLORADO, DESCRIBED AS: BEGINNING AT THE NORTH QUARTER CORNER OF SAID SECTION 2; THENCE NORTH 89 DEGREES 32 MINUTES 15 SECONDS EAST ON AN ASSUMED BEARING ALONG THE NORTH LINE SAID SECTION 2 A DISTANCE OF 1971.69 FEET TO A POINT 675.68 FEET WEST OF THE NORTHEAST CORNER OF SAID NORTHEAST ONE-QUARTER; SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 02 MINUTES 00 SECONDS EAST A DISTANCE OF 2616.94 FEET TO A POINT ON THE SOUTH LINE SAID NORTHEAST ONE-QUARTER; THENCE NORTH 89 DEGREES 31 MINUTES 50 SECONDS EAST ALONG SAID SOUTH LINE A DISTANCE OF 166.45 FEET TO A POINT 492.71 FEET WEST OF THE EAST ONE-QUARTER CORNER SAID SECTION 2; THENCE NORTH 00 DEGREES 02 MINUTES 00 SECONDS WEST PARALLEL WITH THE WEST LINE SAID SECTION 2 A DISTANCE OF 449.18 FEET TO A POINT 2167.74 FEET SOUTH OF THE NORTH LINE SAID NORTHEAST ONE-QUARTER; THENCE NORTH 89 DEGREES 31 MINUTES 50 SECONDS EAST PARALLEL WITH THE EAST-WEST CENTERLINE OF SAID SECTION 2 A DISTANCE OF 495.55 FEET TO THE EAST LINE OF SAID NORTHEAST ONE-QUARTER; THENCE NORTH 00 DEGREES 19 MINUTES 42 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 2167.83 FEET TO THE NORTHEAST CORNER OF SAID NORTHEAST ONE-QUARTER; THENCE SOUTH 89 DEGREES 32 MINUTES 15 SECONDS WEST ALONG THE NORTH LINE OF SAID NORTHEAST ONE-QUARTER A DISTANCE OF 675.68 FEET TO THE TRUE POINT OF BEGINNING, EXCEPT THE EAST 30.00 FEET THEREOF AND ANY PART LYING WITHIN THE RIGHT OF WAY FOR EAST 72ND AVENUE, COUNTY OF ADAMS, STATE OF COLORADO.

RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

EXHIBIT B

EXCEPTIONS

1. TAXES AND ASSESSMENTS FOR THE YEAR 2018 AND SUBSEQUENT YEARS.
2. WATER RIGHTS, CLAIMS OR TITLE TO WATER.
3. RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT NO. 193081 DATED APRIL 27, 1911 FOR THE NORTHEAST 1/4 SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, STORED IN OUR RECORDS AS ESI 32121132.
4. RESERVATION OF AN UNDIVIDED 97  $\frac{1}{4}$   $\frac{1}{4}$  INTEREST IN ALL MINERALS, OIL, GAS AND OTHER HYDROCARBONS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS TO EXPLORE FOR, PRODUCE, EXTRACT AND MINE THE SAME, AS RESERVED UNTO ROBERT J. CALLAHAN AND LOREN DOW, TRUSTEES, IN THE DEED RECORDED JANUARY 8, 1975 IN BOOK 1972 AT PAGE 532.
5. MINERAL RIGHTS AS CONVEYED IN INSTRUMENT RECORDED OCTOBER 5, 1979 IN BOOK 2393 AT PAGE 202 AND 209.
6. TERMS, CONDITIONS AND PROVISIONS OF NOTICE OF AREA OF PANHANDLE EASTERN PIPE LINE COMPANY RECORDED JUNE 25, 1986 IN BOOK 3162 AT PAGE 261.
7. MINERAL RIGHTS AS RESERVED, AND EASEMENT FOR ROAD PURPOSES OVER THE EAST 30 FEET OF SUBJECT PROPERTY, AS SHOWN IN INSTRUMENT RECORDED FEBRUARY 5, 1981 IN BOOK 2329 AT PAGE 170.
8. MINERAL DEED RECORDED FEBRUARY 14, 1989 IN BOOK 3535 AT PAGE 629.
9. TERMS, CONDITIONS AND PROVISIONS OF RESOLUTION FOR DEDICATION OF ADDITIONAL STREET RIGHT-OF-WAY RECORDED FEBRUARY 02, 1998 AT RECEPTION NO. C0359639.
10. OIL AND GAS LEASE RECORDED FEBRUARY 02, 2011 UNDER RECEPTION NO. 2011000007831 AND RE-RECORDED FEBRUARY 9, 2012 UNDER RECEPTION NO. 2012000009526.
11. OIL AND GAS LEASE RECORDED JUNE 21, 2011 UNDER RECEPTION NO. 20110000039256 AND RE-RECORDED FEBRUARY 14, 2012 UNDER RECEPTION NO. 2012000010646.
12. OIL AND GAS LEASE RECORDED JUNE 24, 2011 UNDER RECEPTION NO. 20110000040309 AND RE-RECORDED FEBRUARY 14, 2012 UNDER RECEPTION NO. 2012000010564.
13. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING FACTS SHOWN ON LAND SURVEY PLAT CERTIFIED APRIL 20, 2018 PREPARED BY GILJANS LAND CONSULTANTS, JOB #18034 SAID DOCUMENT STORED AS OUR ESI 35577644:
  - A). FENCING IS NOT COINCIDENT TO PROPERTY LINE. B). WELL LOCATED ON SUBJECT PARCEL.
  - B). WELL LOCATED ON SUBJECT PARCEL.

RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO



RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

When Recorded Please Return to:  
Berg Hill Greenleaf & Ruscitti LLP  
Becky J. Rigo, Esq.  
1712 Pearl Street  
Boulder, CO 80302

State Documentary Fee
Date
\$ 150.00

**SPECIAL WARRANTY DEED**

THIS DEED, made effective this 31<sup>st</sup> day of May, 2017, between, David A. Lincoln and Joyce E. Lincoln, as individuals, whose street address is 5659 South Lansing Way, Englewood, CO 80111 ("Grantors"), and, Henderson Aggregate, LTD., a Colorado limited partnership, whose street address is 7321 East 88<sup>th</sup> Avenue, Suite 100, Henderson, CO 80640 ("Grantee");

WITNESSETH, that Grantors, for and in consideration of the sum of One Million, Five Hundred Thousand, and 00/100 Dollars (\$1,500,000.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, have granted, bargained, sold, and conveyed, and by these presents do grant, bargain, sell, convey, and confirm, unto Grantee and Grantee's successors, and assigns forever, all the real property together with improvements situate, lying, and being in the County of Adams, and State of Colorado, described as follows:

**SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF;**

which, along with other real property not conveyed hereunder, is also known by street and number as: 50500 East 72<sup>nd</sup> Avenue, Bennett, Colorado 80102-9302 (the "Property");

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever of Grantors, either in law or equity, of, in, and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto Grantee, and Grantee's successors and assigns forever. Grantors, for Grantors and Grantors' heirs, successors, and assigns, do covenant and agree that Grantors shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of Grantee, and Grantee's heirs, successors, and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantors, SUBJECT to those specific exceptions set forth on **EXHIBIT B** attached hereto and incorporated herein.

*[Remainder of Page Intentionally Left Blank; Signature Page to Follow]*

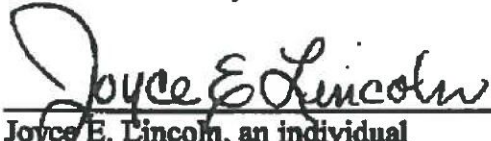


70531569

IN WITNESS WHEREOF, Grantors have executed this deed on the date set forth above.

**GRANTORS:**

  
\_\_\_\_\_  
David A. Lincoln, an individual

  
\_\_\_\_\_  
Joyce E. Lincoln, an individual

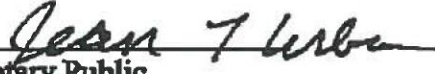
RECEIVED

FEB 26 2019

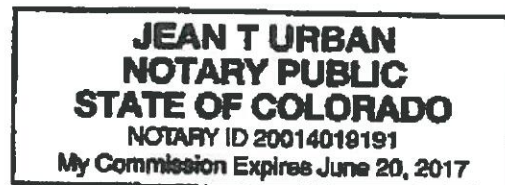
WATER RESOURCES  
STATE ENGINEER  
COLO

STATE OF COLORADO            )  
  ) :ss  
COUNTY OF                    )  
Boulder

The foregoing instrument was acknowledged before me this 31 day of May, 2017, by David A. Lincoln.

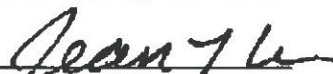
  
\_\_\_\_\_  
Notary Public

My Commission expires: 6/20/17

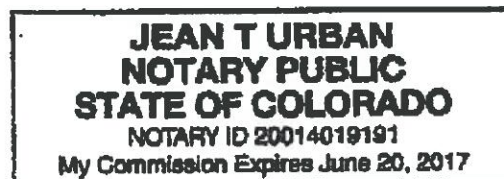


STATE OF COLORADO            )  
  ) :ss  
COUNTY OF                    )  
Boulder

The foregoing instrument was acknowledged before me this 31 day of May, 2017, by Joyce E. Lincoln.

  
\_\_\_\_\_  
Notary Public

My Commission expires: 6/20/17





RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

**EXHIBIT A**  
**Legal Description**

**PARCELA:**

ALL THAT PORTION IN THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, CONTAINED IN DEED RECORDED JANUARY 21, 2004 AT RECEPTION NO. C1267893, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 2 AND CONSIDERING THE NORTH LINE OF THE NORTHEAST QUARTER TO BEAR NORTH 89 DEGREES 32 MINUTES 15 SECONDS EAST WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE NORTH 89 DEGREES 32 MINUTES 15 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 972.95 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 32 MINUTES 15 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 998.74 FEET TO A POINT 675.68 FEET WEST OF THE NORTHEAST CORNER OF SAID SECTION 2, SAID POINT BEING THE NORTHWEST CORNER OF THAT PARCEL DESCRIBED IN DEED RECORDED JUNE 06, 1983 AT RECEPTION NO. B440790;

THENCE SOUTH 00 DEGREES 02 MINUTES 00 SECONDS EAST, ALONG THE WEST LINE OF SAID PARCEL DESCRIBED IN DEED AT RECEPTION NO. B440790, A DISTANCE OF 2616.91 FEET TO A POINT ON THE EAST-WEST CENTERLINE OF SAID SECTION 2 THAT IS 659.16 FEET WEST OF THE EAST QUARTER CORNER OF SAID SECTION 2, SAID POINT BEING THE SOUTHWEST CORNER OF THAT PARCEL DESCRIBED IN DEED RECORDED JUNE 06, 1983 AT RECEPTION NO. B440790;

THENCE SOUTH 89 DEGREES 31 MINUTES 50 SECONDS WEST, ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 2, A DISTANCE OF 998.74 FEET TO A POINT THAT IS 981.22 FEET EAST OF THE CENTER QUARTER CORNER OF SAID SECTION 2;

THENCE NORTH 00 DEGREES 02 MINUTES 00 SECONDS WEST, A DISTANCE OF 2617.06 FEET TO THE POINT OF BEGINNING,

EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED RECORDED AUGUST 20, 2007 UNDER RECEPTION NO. 2007000079980.

**PARCELA (AS SURVEYED):**

A PORTION OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, ALL THAT PORTION OF WHICH IS CONTAINED IN DEED RECORDED AT RECEPTION #C1267893, EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED RECORDED AT RECEPTION #2007000079980 AND ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED IN RECEPTION #B440790, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 2; THENCE ON THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 2, THE BASIS ON WHICH ALL BEARINGS HEREBON ARE BASED, N89°32'15"E, A DISTANCE OF 974.98 FEET; THENCE S00°00'21"E, A DISTANCE OF 1520.74 FEET TO THE POINT OF BEGINNING;

THENCE N89°32'37"E, A DISTANCE OF 1004.47 FEET; THENCE S00°09'39"E, A DISTANCE OF 1096.11 FEET; THENCE ON THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 2, S89°31'58"W, A DISTANCE OF 1007.44 FEET; THENCE N00°00'21"W, A DISTANCE OF 1096.32 FEET TO THE POINT OF BEGINNING;

COUNTY OF ADAMS,  
STATE OF COLORADO

LEGAL DESCRIPTION PREPARED BY:



RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

ROBERT E. HARRIS, P.L.S. 37601  
FOR & ON BEHALF OF:  
GILLIANS LAND CONSULTANTS  
P.O. BOX 746358  
ARVADA, CO 80006-6358

**PARCEL B:**

THAT PART OF THE EAST ONE-HALF OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, DESCRIBED AS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 2;  
THENCE N89°33'35"E ALONG THE SOUTH LINE OF SAID SECTION 2, A DISTANCE OF 4,278.78 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE ALONG THE LINE PROLONGED OF N89°33'35"E ALONG SAID SOUTH LINE A DISTANCE OF 982.41 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 2;  
THENCE N00°31'00"E ALONG THE EAST LINE OF SAID SECTION 2 A DISTANCE OF 2,643.58 FEET TO THE EAST ONE-QUARTER CORNER OF SAID SECTION 2;  
THENCE N00°13'07"E ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 2 A DISTANCE OF 449.21 FEET;  
THENCE S89°31'50"W PARALLEL WITH THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 2 A DISTANCE OF 495.55 FEET;  
THENCE S00°02'00"E A DISTANCE OF 449.18 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 2;  
THENCE S89°31'50"W ALONG SAID NORTH LINE A DISTANCE OF 514.21 FEET;  
THENCE S00°02'00"E A DISTANCE OF 2,642.78 FEET TO THE TRUE POINT OF BEGINNING.

**PARCEL B (AS SURVEYED):**

A PARCEL OF LAND LOCATED IN THE EAST 1/2 OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST 1/4 CORNER OF SAID SECTION 2, FROM WHENCE THE NORTH 1/4 CORNER OF SAID SECTION 2 BEARS S89°32'15"W, A DISTANCE OF 2650.83 FEET, AND ON WHICH ALL BEARINGS HEREON ARE BASED; THENCE ON THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 2, S00°11'26"W, A DISTANCE OF 2617.01 FEET TO THE POINT OF BEGINNING;

THENCE ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 2, S00°29'37"W, A DISTANCE OF 2643.60 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 2; THENCE ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 2, S89°31'48"W, A DISTANCE OF 984.07 FEET; THENCE, N00°01'19"W, A DISTANCE OF 2643.36 FEET; THENCE ON THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 2, N89°31'58"E, A DISTANCE OF 514.88 FEET; THENCE N00°10'26"W, A DISTANCE OF 449.18 FEET; THENCE N89°32'01"E, A DISTANCE OF 465.84 FEET; THENCE ON THE WEST LINE OF THE LAND DESCRIBED IN BOOK 3927, PAGE 224, A LINE 30.00 FEET WEST OF, AND PARALLEL TO, THE EAST LINE OF SAID NORTHEAST 1/4 OF SAID SECTION 2, S00°11'26"W, A DISTANCE OF 449.20 FEET; THENCE ON THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 2, N89°31'58"E, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING;

COUNTY OF ADAMS,  
STATE OF COLORADO

LEGAL DESCRIPTION PREPARED BY:  
ROBERT E. HARRIS, P.L.S. 37601  
FOR & ON BEHALF OF:  
GILLIANS LAND CONSULTANTS

P.O. BOX 746358  
ARVADA, CO 80006-6358

**PARCEL C: (AKA PROVOST ROAD EXTENSION)**

THE EAST 30 FEET OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, EXCEPT THAT PORTION CONVEYED TO THE COUNTY OF ADAMS, STATE OF COLORADO, BY THE DEED RECORDED JUNE 8, 2016 UNDER RECEPTION NO. 2016000044789, COUNTY OF ADAMS, STATE OF COLORADO.

**PARCEL D: (AKA E. 64TH AVENUE EXTENSION)**

THE NORTH 30 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO.

RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO



RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

**EXHIBIT B**  
**Exceptions**

1. TAXES AND ASSESSMENTS FOR THE YEAR 2017 AND SUBSEQUENT YEARS, A LIEN NOT YET DUE OR PAYABLE.
2. WATER RIGHTS, CLAIMS OR TITLE TO WATER.
3. RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT NO. 193081 DATED APRIL 27, 1911 FOR THE NORTHEAST 1/4 SECTION 2, TOWNSHIP 3 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, STORED IN OUR RECORDS AS ESI 32121139. (AFFECTS PARCELS A, B AND C)
4. RESERVATIONS BY THE UNION PACIFIC LAND COMPANY OF:
  - (1) ALL OIL, COAL AND OTHER MINERALS UNDERLYING SUBJECT PROPERTY,
  - (2) THE EXCLUSIVE RIGHT TO PROSPECT FOR, MINE AND REMOVE OIL, COAL AND OTHER MINERALS, AND
  - (3) THE RIGHT OF INGRESS AND EGRESS AND REGRESS TO PROSPECT FOR, MINE AND REMOVE OIL, COAL AND OTHER MINERALS, ALL AS CONTAINED IN DEED RECORDED JANUARY 31, 1902, IN BOOK A64 AT PAGE 488. (AFFECTS PARCEL D)
5. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE BENNETT FIRE PROTECTION DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED OCTOBER 02, 1962, IN BOOK 1018 AT PAGE 159. (AFFECTS PARCELS A, B, C AND D)
6. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE NORTH KIOWA-BUJOU GROUND WATER MANAGEMENT DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED APRIL 27, 1967, UNDER RECEPTION NO. 809148. (AFFECTS PARCELS A, B, C AND D)
7. OIL AND GAS LEASE BETWEEN IRMA FRANCES CALLAHAM, LESSOR, AND ROY A. SHARP, LESSEE, RECORDED JULY 11, 1969 IN BOOK 1529 AT PAGE 459, AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS PARCELS A, B AND C)
8. AN UNDIVIDED 97 1/2% INTEREST IN ALL MINERALS, OIL, GAS AND OTHER HYDROCARBONS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS TO EXPLORE FOR, PRODUCE, EXTRACT AND MINE THE SAME, AS RESERVED UNTO ROBERT J. CALLAHAM AND LOREN DOW, TRUSTEES, IN THE DEED RECORDED JANUARY 8, 1975 IN BOOK 1972 AT PAGE 532, AND ANY AND ALL ASSIGNMENTS THEREOF OR INTERESTS THEREIN. (AFFECTS PARCELS A, B AND C)
9. RESERVATION OF "ALL MINERAL RIGHTS, IF ANY" AS CONTAINED IN DEED RECORDED APRIL 9, 1979 IN BOOK 2334 AT PAGE 640, AND ANY AND ALL ASSIGNMENTS THEREOF OR INTERESTS THEREIN. (AFFECTS PARCEL A)
10. TERMS, CONDITIONS AND PROVISIONS OF NOTICE OF AREA OF PANHANDLE EASTERN PIPE LINE COMPANY RECORDED JUNE 25, 1986 IN BOOK 3162 AT PAGE 961. (AFFECTS PARCELS A, B, C AND D)
11. TERMS, CONDITIONS, PROVISIONS, RESTRICTIONS AND COVENANTS SET FORTH IN DEED RECORDED JULY 10, 1992 IN BOOK 3927 AT PAGE 224 AND DEED RECORDED JULY 24, 1992 IN BOOK 3931 AT PAGE 757, AS FOLLOWS: "FOR ROAD PURPOSES ONLY." (AFFECTS PARCELS C AND D)
12. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN FINDINGS AND ORDER OF THE COLORADO GROUND WATER COMMISSION RECORDED MAY 05, 1994 IN BOOK 4312 AT PAGE 469. (AFFECTS PARCELS B AND C)
13. THE EFFECT OF ZONING HEARING DECISION - CASE #PRJ2000-00025 BENNETT PARK & RECREATION DISTRICT, RECORDED AUGUST 15, 2000, IN BOOK 6222 AT PAGE 563. (AFFECTS PARCEL A)



RECEIVED

FEB 26 2019

WATER RESOURCES  
STATE ENGINEER  
COLORADO

14. REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT AS EVIDENCED BY INSTRUMENT RECORDED MAY 20, 2002 UNDER RECEPTION NO. C0971878. (AFFECTS PARCEL D)
15. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE BENNETT PARK AND RECREATION DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED OCTOBER 09, 2008, UNDER RECEPTION NO. 2008000080754. (AFFECTS PARCEL A)
16. OIL AND GAS LEASE BETWEEN MARY FRANCES HARWARD AND GORDON W. HARWARD, LESSORS AND CHESAPEAKE EXPLORATION, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY, LESSEE, AS MEMORIALIZED BY MEMORANDUM OF LEASE RECORDED FEBRUARY 02, 2011 UNDER RECEPTION NO. 2011000007831 AND RE-RECORDED FEBRUARY 9, 2012 UNDER RECEPTION NO. 2012000009526, FOR AN INITIAL TERM OF FIVE YEARS WITH AN OPTION TO EXTEND AN ADDITIONAL FIVE YEARS, AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS PARCELS A, B AND C)
17. OIL AND GAS LEASE BETWEEN HOME MINERALS, LLC, BY AND THROUGH E.B. O'HARA AS MANAGER, LESSOR AND CHESAPEAKE EXPLORATION, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY, LESSEE, AS MEMORIALIZED BY MEMORANDUM OF LEASE RECORDED JUNE 21, 2011 UNDER RECEPTION NO. 2011000039256, AND RE-RECORDED FEBRUARY 14, 2012 UNDER RECEPTION NO. 2012000010646, FOR AN INITIAL TERM OF THREE YEARS WITH AN OPTION TO EXTEND AN ADDITIONAL THREE YEARS, AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS PARCELS A, B AND C)
18. OIL AND GAS LEASE BETWEEN ROBIN VAN BERGEN, LESSOR AND CHESAPEAKE EXPLORATION, LLC, LESSEE, RECORDED JUNE 24, 2011 UNDER RECEPTION NO. 2011000040309, AND RE-RECORDED FEBRUARY 14, 2012 UNDER RECEPTION NO. 2012000010564, FOR AN INITIAL TERM OF THREE YEARS WITH AN OPTION TO EXTEND AN ADDITIONAL THREE YEARS, AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS PARCELS A, B AND C)
19. OIL AND GAS LEASE BETWEEN GARY SANDLIN, LESSOR AND CHESAPEAKE EXPLORATION, INC., LESSEE, RECORDED SEPTEMBER 08, 2011 UNDER RECEPTION NO. 2011000057817, AND RE-RECORDED FEBRUARY 15, 2012 UNDER RECEPTION NO. 2012000010864, FOR AN INITIAL TERM OF THREE YEARS WITH AN OPTION TO EXTEND AN ADDITIONAL THREE YEARS, AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS PARCEL B)
20. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN AND IMPOSED BY RESOLUTION NO. 2016-144 RECORDED MARCH 11, 2016 UNDER RECEPTION NO. 2016000018709. (AFFECTS PARCELS A, B, C AND D)
21. OIL AND GAS LEASE BETWEEN MARY FRANCES HARWARD, LESSOR, AND KIOWA CREEK RESOURCES, LLC, A COLORADO LIMITED LIABILITY COMPANY, RECORDED FEBRUARY 22, 2017 UNDER RECEPTION NO. 2017000016309 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN. (AFFECTS PARCELS A, B AND C)
22. ANY RIGHTS OR INTERESTS OF THIRD PARTIES WHICH EXIST OR ARE CLAIMED TO EXIST IN AND OVER THE PRESENT AND PAST BED, BANKS OR WATERS OF KIOWA CREEK AS SHOWN ON ASSESSOR'S MAP (STORED IN OUR RECORDS AS ESI 32125628). (AFFECTS PARCELS B AND D)
23. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING FACTS SHOWN ON LAND SURVEY PLAT CERTIFIED APRIL 19, 2017 PREPARED BY GILLIANS, JOB #17033: SAID DOCUMENT STORED AS ESI 32752090
  - A. THE FENCE LINE ALONG THE EAST AND NORTH BOUNDARIES OF PARCEL B DO NOT COINCIDE WITH SAID BOUNDARY LINES.

*[Remainder of Page Intentionally Left Blank]*



STATE OF  
COLORADO

Comaniciu - DNR, Ioana <ioana.comaniciu@state.co.us>

## Revision to Application for Determination of Water Right - Henderson Aggregate, Ltd.

1 message

**Nathan Phelps** <nathan.phelps@deereault.com>

Thu, Mar 28, 2019 at 12:06 PM

To: "Ioana.Comaniciu@state.co.us" <Ioana.Comaniciu@state.co.us>

Cc: Victor DeWolfe <victor.dewolfe@deereault.com>

Ms. Comaniciu:

As discussed over the telephone, please remove "augmentation" from the list of uses in the two applications for determinations of water right for Henderson Aggregate, Ltd. for the Lower Arapahoe and Laramie-Fox Hills aquifers located in Section 2, Township 3 South, Range 63 West. I will provide a letter of authorization from Henderson Aggregate in a separate email. Please let me know if you have any additional questions or concerns with the applications.

Regards,

Nathan

**Nathan D. Phelps, P.E.**

Water Resources Project Engineer

**DEERE & AULT CONSULTANTS, INC.**

600 S. Airport Rd., Suite A-205

Longmont, CO 80503

Office: (303) 651-1468, ext. 415

Direct: (720) 534-0642

Cell: (970) 481-0025

nathan.phelps@deereault.com



Albert Frei, Jr.  
Henderson Aggregate, Ltd  
P.O. Box 700  
Henderson, Colorado 80640

March 28, 2019

Mr. Victor deWolfe  
Deere & Ault Consultants, Inc.  
600 S. Airport Road, Suite A-205  
Longmont, Colorado 80503

Dear Victor:

Please accept this letter as authorization from Henderson Aggregate, Ltd. allowing Deere & Ault Consultants, Inc. to sign and amend determination of water right and well permit applications pertaining to the Bennett Non-tributary Well.

Sincerely,

A handwritten signature in black ink, appearing to read "Albert Frei, Jr.", written in a cursive style.

Albert Frei, Jr.  
General Partner

Determination of Water Right Evaluation Sheet  
Section 37-90-107(7), C.R.S.

Applicant: Henderson Aggregate, Ltd.  
Aquifer: Lower Arapahoe  
Acres Claimed: 129.15

Receipt No.: 3690742B  
Basin: Kiowa-Bijou  
GWMD: North Kiowa Bijou  
County: Adams

General Description: a portion of the E1/2 of Section 2, Township 3 South, Range 63 West of the 6th P.M.

I. Reductions to acreage claimed as Overlying Land due to previous allocation of underlying water resulting from previously issued Determinations of Water Right, and well permits issued between November 19, 1973 and August 4, 1998: None

II. Quantity of water underlying the Overlying Land:  $AF = (\text{acres})(\text{ft SS})(SY)$ ,  $AF/YR = AF/100 \text{ years}$

Overlying Land (ac)	Average Saturated Sandstone <sup>1</sup> (ft)	Specific Yield	Quantity of Underlying Water (af)	Average Annual Withdrawal <sup>2</sup> (af/yr)
129.15	80	17%	1,760	17.6

III. Overlapping cylinders of pre-November 19, 1973 wells: None

IV. Small-capacity wells located on the Overlying Land: None

V. Water allocated herein:

Quantity Available for Allocation (af)	Allowed Average Annual Amount of Withdrawal available for allocation <sup>2</sup> (af/yr)	Maximum Allocation Requested by Applicant (af/yr)	Annual Exclusion Requested by Applicant (af/yr)	Allowed Average Annual Amount of Withdrawal Allocated Herein (af/yr)	Quantity Allocated Herein <sup>2</sup> (af)
1,760	17.6	NA	NA	17.6	1,760

VI. Replacement water requirement: nontributary  
Replacement Plan Required: No

VII. Aquifer Depth (Approximate, Center of Parcel)

Top, ft	Base, ft
560	770

Notes:

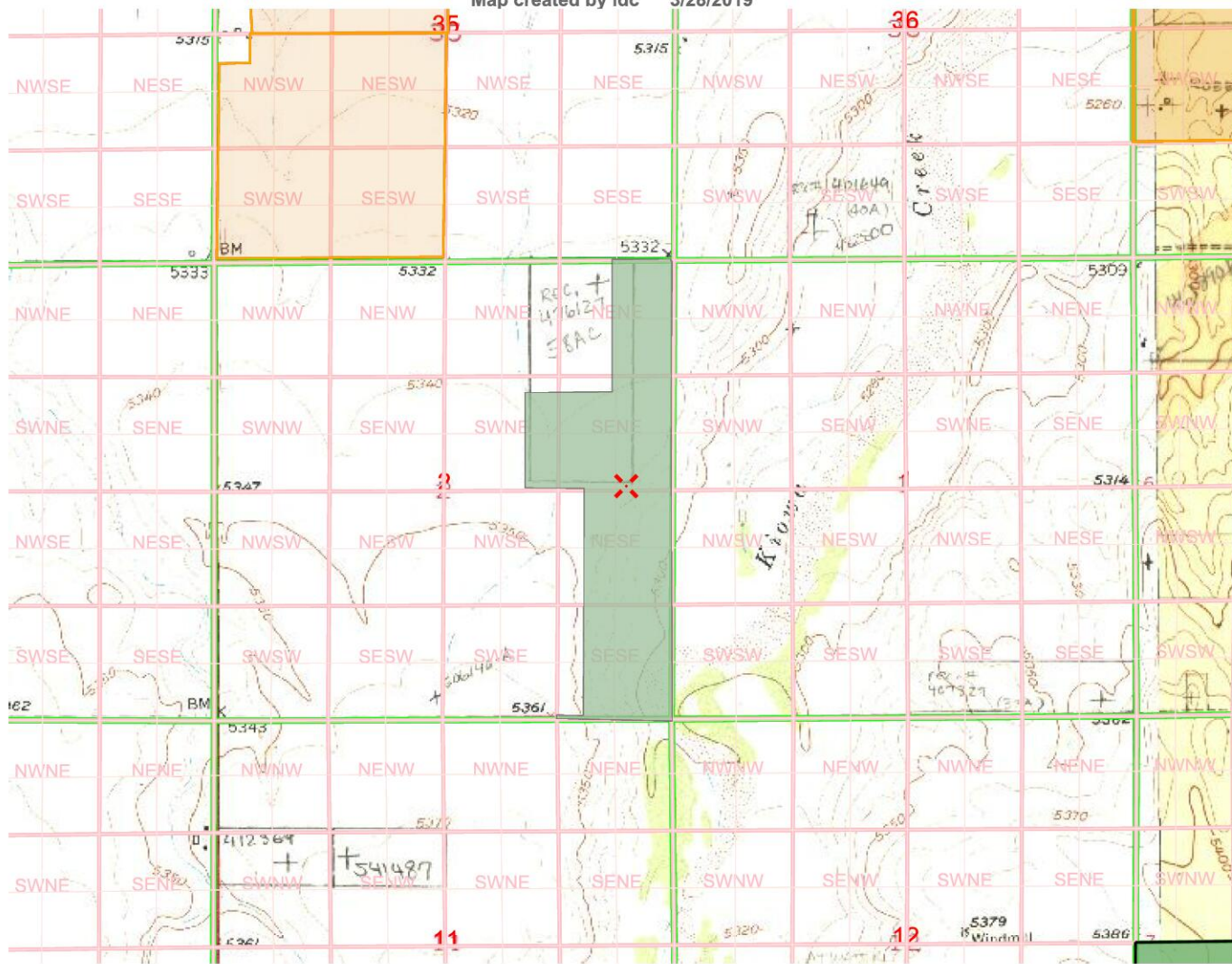
1. The average saturated sandstone/siltstone was obtained from the Sandstone/Siltstone map of the Designated Basins Rules.
2. Based on a 100 year aquifer life.

Evaluated by:	idc 3/28/2019
Reviewed by:	JMW 4/1/2019

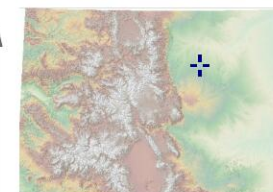
DATA ENTRY MENU

# AQUAMAP Colorado Division of Water Resources Topo LKa

Map created by idc 3/28/2019



## MAP NAVIGATION



Click to create PDF  
UTM X, Zone 13: 553690  
UTM Y, Zone 13: 4406958  
Long: -104° 22' 21.9"  
Lat: 39° 48' 39.3"  
UTM and Geographic(LL)  
coordinates in NAD 83

## DATA DISPLAY

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Background                  | <input checked="" type="checkbox"/> Counties               | <input type="checkbox"/> Water Well Application           |
| Map Cab(Main) ▼   | <input checked="" type="checkbox"/> PLSS                   | <input checked="" type="checkbox"/> DWR Parcels           |
| <input checked="" type="radio"/> Low <input type="radio"/> High | <input type="checkbox"/> Roads                             | <input checked="" type="checkbox"/> EPA Well Notification |
| Transparency  | <input type="checkbox"/> Hydrography                       | <input type="checkbox"/> Oil/Gas Well Location            |
|   | <input type="checkbox"/> County Parcels (No Public Access) |   |
|   | <input type="checkbox"/> Towns                             | <a href="#">More Data</a>                                 |

## LOCATION

Section	Township	Range	Meridian
2 ▼	3 ▼	S ▼	63 ▼
PLSS Locator		Quick Zoom	Spacing

## PRINTING

Output Scale	Page Size	User
24,000 ▼	8.5x11 ▼	idc
Title <input type="text" value="Topo LKa"/>		

Note: The well locations displayed on AquaMap are based on location information provided by well permit application forms and are only as accurate as the information provided. The actual physical location of all wells have not been field verified and may vary from the location displayed. Refer to a copy of the original well permit file, available on the Division of Water Resources website, for well location details.



Based on work developed at <http://www.carto.net>

Address location by Bing Maps  
AquaMap Version 3.0.1 July 5, 2009

DATA ENTRY MENU

# AQUAMAP

## Colorado Division of Water Resources

### Mylar LKa

Map created by idc 3/28/2019



### MAP NAVIGATION

Click to create PDF  
 UTM X, Zone 13: 553753  
 UTM Y, Zone 13: 4407471  
 Long: -104° 22' 19.1"  
 Lat: 39° 48' 55.9"  
 UTM and Geographic(LL) coordinates in NAD 83

### DATA DISPLAY

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Background                  | <input checked="" type="checkbox"/> Counties               | <input type="checkbox"/> Water Well Application           |
| Mylar LKa   | <input checked="" type="checkbox"/> PLSS                   | <input checked="" type="checkbox"/> DWR Parcels           |
| <input checked="" type="radio"/> Low <input type="radio"/> High | <input type="checkbox"/> Roads                             | <input checked="" type="checkbox"/> EPA Well Notification |
| Transparency  | <input type="checkbox"/> Hydrography                       | <input type="checkbox"/> Oil/Gas Well Location            |
|   | <input type="checkbox"/> County Parcels (No Public Access) |   |
|   | <input type="checkbox"/> Towns                             | <a href="#">More Data</a>                                 |

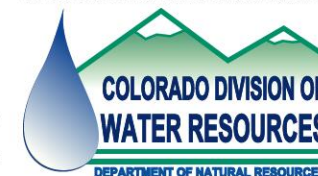
### LOCATION

Section	Township	Range	Meridian
2	3	S	63
PLSS Locator	Quick Zoom	Spacing	

### PRINTING

Output Scale	Page Size	User
24,000	8.5x11	idc
Title Mylar LKa		

Note: The well locations displayed on AquaMap are based on location information provided by well permit application forms and are only as accurate as the information provided. The actual physical locations of all wells have not been field verified and may vary from the location displayed. Refer to a copy of the original well permit file, available on the Division of Water Resources website, for well location details.



Based on work developed at <http://www.carto.net>

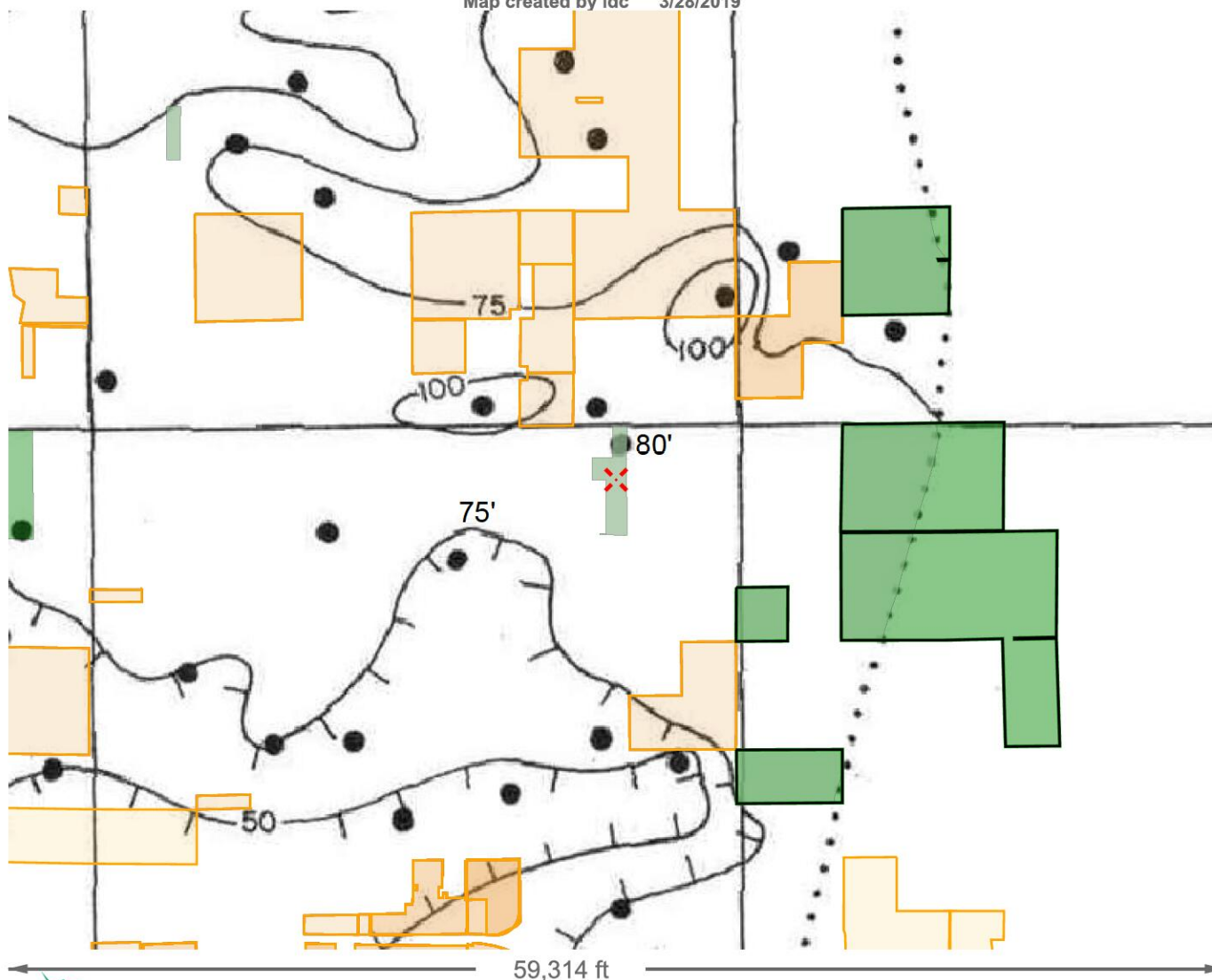
Address location by Bing Maps  
 AquaMap Version 3.0.1 July 5, 2009



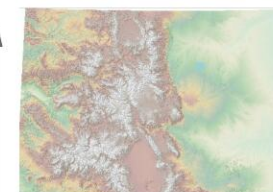
DATA ENTRY MENU

# AQUAMAP Colorado Division of Water Resources Sand LKa

Map created by idc 3/28/2019



## MAP NAVIGATION



Click to create PDF  
UTM X, Zone 13: 560495  
UTM Y, Zone 13: 4400977  
Long: -104° 17' 37.7"  
Lat: 39° 45' 23.6"  
UTM and Geographic(LL)  
coordinates in NAD 83

## DATA DISPLAY

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Background                  | <input checked="" type="checkbox"/> Counties               | <input type="checkbox"/> Water Well Application           |
| <input type="checkbox"/> L Arapahoe Sands                       | <input type="checkbox"/> PLSS                              | <input checked="" type="checkbox"/> DWR Parcels           |
| <input checked="" type="radio"/> Low <input type="radio"/> High | <input type="checkbox"/> Roads                             | <input checked="" type="checkbox"/> EPA Well Notification |
| Transparency  | <input type="checkbox"/> Hydrography                       | <input type="checkbox"/> Oil/Gas Well Location            |
|   | <input type="checkbox"/> County Parcels (No Public Access) |   |
|   | <input type="checkbox"/> Towns                             | <a href="#">More Data</a>                                 |

## LOCATION

Section	Township	Range	Meridian
2 ▼	3 ▼ S ▼	63 ▼ W ▼	Sixth ▼
<a href="#">PLSS Locator</a>		<a href="#">Quick Zoom</a>	<a href="#">Spacing</a>

## PRINTING

Output Scale	Page Size	User
100,000 ▼	8.5x11 ▼	idc
Title <input type="text" value="Sand LKa"/>		

Note: The well locations displayed on AquaMap are based on location information provided by well permit application forms and are only as accurate as the information provided. The actual physical location of all wells have not been field verified and may vary from the location displayed. Refer to a copy of the original well permit file, available on the Division of Water Resources website, for well location details.



Based on work developed at <http://www.carto.net>

Address location by Bing Maps  
AquaMap Version 3.0.1 July 5, 2009

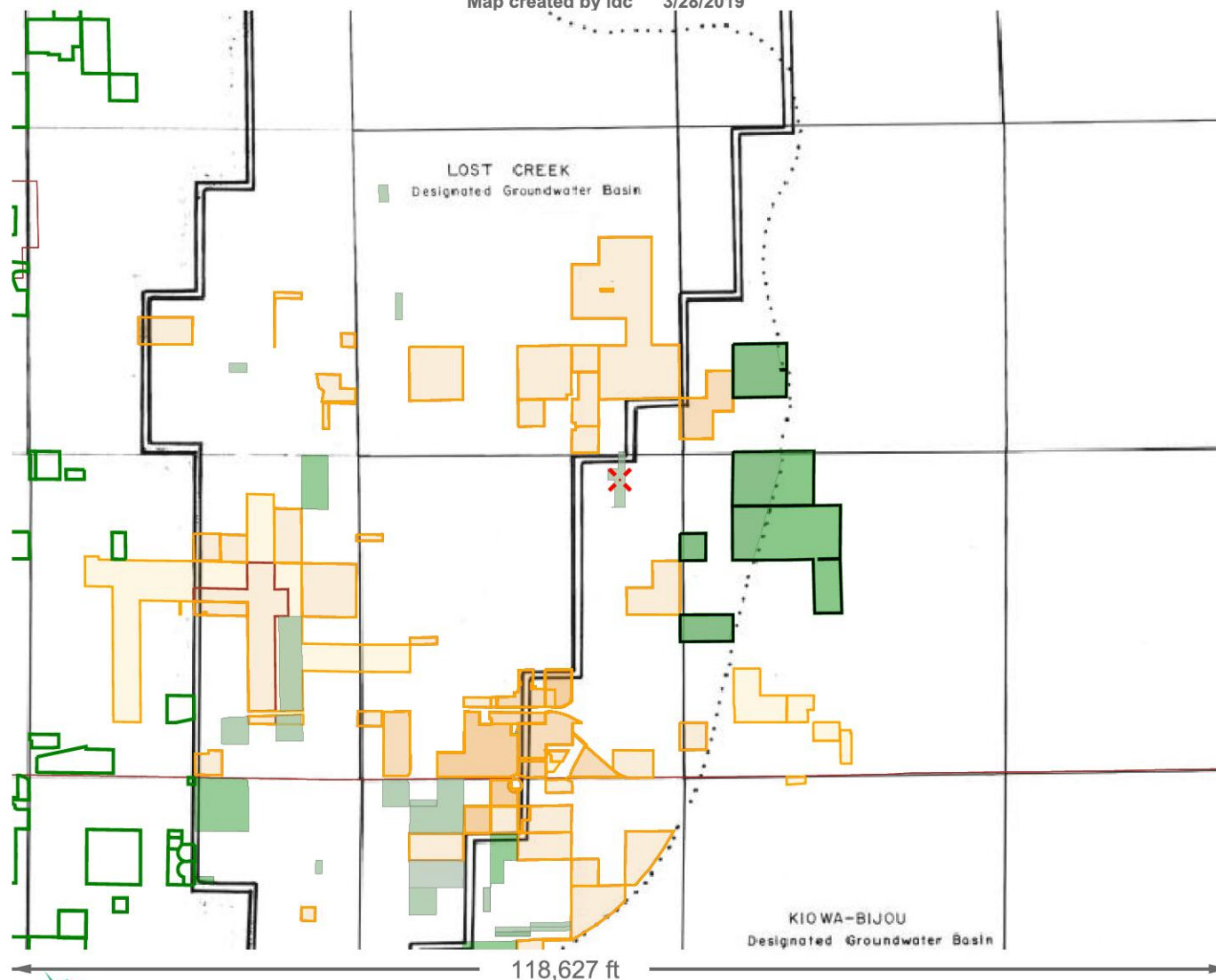


# AQUAMAP

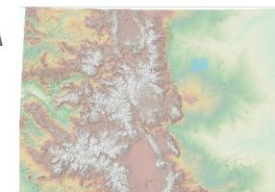
## Colorado Division of Water Resources

### Atlas LKa

Map created by idc 3/28/2019



#### MAP NAVIGATION



Click to create PDF  
 UTM X, Zone 13: 569406  
 UTM Y, Zone 13: 4398186  
 Long: -104° 11' 24.3"  
 Lat: 39° 43' 50.7"  
 UTM and Geographic(LL) coordinates in NAD 83

#### DATA DISPLAY

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Background                  | <input checked="" type="checkbox"/> Counties               | <input type="checkbox"/> Water Well Application           |
| <input type="checkbox"/> L Arapahoe Atlas                       | <input type="checkbox"/> PLSS                              | <input checked="" type="checkbox"/> DWR Parcels           |
| <input checked="" type="radio"/> Low <input type="radio"/> High | <input type="checkbox"/> Roads                             | <input checked="" type="checkbox"/> EPA Well Notification |
| Transparency  | <input type="checkbox"/> Hydrography                       | <input type="checkbox"/> Oil/Gas Well Location            |
|   | <input type="checkbox"/> County Parcels (No Public Access) |   |
|   | <input type="checkbox"/> Towns                             |   |
|   | <a href="#">More Data</a>                                  |   |

#### LOCATION

Section	Township	Range	Meridian
2 ▼	3 ▼	S ▼	63 ▼
PLSS Locator		Quick Zoom	Spacing

#### PRINTING

Output Scale	Page Size	User
200,000 ▼	8.5x11 ▼	idc
Title <input type="text" value="Atlas LKa"/>		

Note: The well locations displayed on AquaMap are based on location information provided by well permit application forms and are only as accurate as the information provided. The actual physical locations of all wells have not been field verified and may vary from the location displayed. Refer to a copy of the original well permit file, available on the Division of Water Resources website, for well location details.

Based on work developed at <http://www.carto.net>Address location by Bing Maps  
AquaMap Version 3.0.1 July 5, 2009

**Bedrock Aquifer Evaluation Determination Tool****Denver Basin Aquifer - Specific Location Determination Tool**

**Applicant:** Henderson Aggregates, Ltd.

**Reciept No:** 3690742A,B

**Evaluated By:** idc

**Location:** SE 1/4 of NE 1/4 of Sec. 2, T.3S, R.63W. ( 2604 NSL, 531 ESL)

**Basin Designation:** Location is within the KIOWA-BIJOU Designated Ground Water Basin.

**Ground Surface Elevation:** 5342 Feet      **Number of Acres:** 129.15

Aquifer	Elevation (ft)		Net Sand	DEPTH (ft)		ANNUAL APPROP. (A-F)	STATUS
	<i>Bot</i>	<i>Top</i>		<i>Bot</i>	<i>Top</i>		
Upper Dawson	--	--	--	--	--	--	--
Lower Dawson	--	--	--	--	--	--	--
Denver	5093	5266	119.3	249	76	26.20	NNT
Upper Arapahoe	4859	5062	118.9	483	280	26.11	NNT
Lower Arapahoe	4571	4784	83.1	771	558	18.24	NT
Laramie-Fox Hills	3995	4254	122.0	1347	1088	23.64	NT

NOTE: 'E' indicates a location is at an aquifer boundary and the values may be more approximate.

Elevation of the bottom and the depth to the bottom of the Upper Arapahoe aquifer are approximate and should be checked against the DENVER BASIN ATLAS NO. 3.

April 1, 2019

Henderson Aggregate, Ltd.  
[nathan.phelps@deereault.com](mailto:nathan.phelps@deereault.com)


RE: Applications for Determinations of Water Right to Appropriate Ground Water from the Laramie-Fox Hills and Lower Arapahoe aquifers Underlying a 129.15-Acre Tract, Receipt Nos. 3690742A and 3690742B

Dear Applicant:

Enclosed is a copy of the legal notice to be published in the Eastern Colorado News newspaper as required for the above described applications. If you find any errors or omissions in the notice, please contact this office by phone as soon as possible so that corrections may be made prior to publication. This office will bill you at a later time for the actual cost of this publication.

If you have any questions concerning these applications, please contact me at this office at (303) 866-3581.

Sincerely,



Ioana Comaniciu  
Water Resource Engineer

Enclosures: a/s



April 1, 2019

Andrew McClary  
North Kiowa Bijou Ground Water Management District  
[andy@mcclarylaw.com](mailto:andy@mcclarylaw.com)

RE: Applications for Determination of Water Right, Section 37-90-107(7) C.R.S, Laramie-Fox Hills and Lower Arapahoe aquifers, Applicant: Henderson Aggregate, Ltd., Receipt No(s). 3690742A and 3690742B

Dear Mr. McClary:

If the Board of Directors of your district wishes to provide written comments or recommendations concerning the above applications, please provide such recommendations within 35 days of the date of this letter.

Pursuant to Section 37-90-107(7), C.R.S., the Ground Water Commission shall have the authority to approve determinations of rights to designated ground water in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers. This application is being processed and evaluated in accordance with this section and the Designated Basin Rules.

If you have any questions regarding these applications, please contact me at [ioana.comaniciu@state.co.us](mailto:ioana.comaniciu@state.co.us) or (303)866-3581 ext. 8246.

Sincerely,



Ioana Comaniciu  
Water Resource Engineer

Attachment: a/s





April 1, 2019

Eastern Colorado News  
[advertising@i-70scout.com](mailto:advertising@i-70scout.com)

Applicant: Henderson Aggregate, Ltd.

***-EMAIL- DOCUMENT TRANSFER-***

Please publish the enclosed legal notice in your editions of April 5, 2019 and April 12, 2019, or as close to these dates as possible. Please single-space all the enclosed material in your standard single column legal notice format. Font size shall not be less than six-point type and not more than nine-point in size.

Prior to publishing the legal notice, a proof copy must be submitted to this office for approval. The Ground Water Commission staff will inspect the proof copy and a reply as to its correctness will be made immediately by phone or email to your office. The proof copy must be directed to the attention of Ioana Comaniciu, Colorado Division of Water Resources at 1313 Sherman St. Room 818, Denver CO 80203, or by email [ioana.comaniciu@state.co.us](mailto:ioana.comaniciu@state.co.us).

The state Controller and the State Purchasing Agent require that a copy of the billing and a copy of the proof of publication affidavit must be received in order to process billing invoices for legal notice publications. The proof of publication must be notarized.

Since we must re-bill the applicant prior to the official action concerning their application request, please transmit the billing copies together with the proofs of publication as soon as possible.

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

Sincerely,



Ioana Comaniciu  
Water Resource Engineer

Enclosure (a/s)





BEFORE THE COLORADO GROUND WATER COMMISSION

---

KIOWA-BIJOU DESIGNATED GROUND WATER BASIN AND NORTH KIOWA BIJOU GROUND WATER MANAGEMENT DISTRICT - ADAMS COUNTY

---

TAKE NOTICE that pursuant to Section 37-90-107(7), C.R.S., Henderson Aggregate, Ltd. (hereinafter "applicant") has applied for determinations of water right to allow the withdrawal of designated ground water from the Laramie-Fox Hills and Lower Arapahoe aquifers underlying 129.15 acres generally described as a portion of the E1/2 of Section 2, Township 3 South, Range 63 West of the 6th P.M. The applicant claims ownership of this land and control of the ground water in the above described aquifers under this property. The ground water from these allocations will be used on the described property for the following beneficial uses: domestic, commercial, industrial, irrigation, stock watering and replacement. The maximum allowable annual amount of ground water in the aquifer underlying the described property will be allocated.

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, the Colorado Ground Water Commission shall allocate ground water from the above aquifers based on ownership of the overlying land and an aquifer life of one hundred years. A preliminary evaluation of the application by the Commission Staff finds the annual amount of water available for allocation from the aquifers underlying the above-described property to be 24.2 acre-feet for the Laramie-Fox Hills aquifer and 17.6 acre-feet for the Lower Arapahoe aquifer, subject to final staff evaluation. The estimated available annual acre-feet allocation for each aquifer may be increased or decreased by the Commission to conform to the actual aquifer characteristics, based upon site specific data.

In accordance with Rule 5.3.6 of the Designated Basin Rules, the Commission Staff's preliminary evaluation of the application finds the replacement water requirement status for the aquifers underlying the above-described property to be nontributary for the Laramie-Fox Hills aquifer and nontributary for the Lower Arapahoe aquifer.

Upon Commission approval of the determination of water right, well permits for wells to withdraw the allowed allocation shall be available upon application, subject to the conditions of the determination and the Designated Basin Rules and subject to approval by the Commission. Such wells must be completed in the aquifer and must be located on the above-described 129.15 acre property.

Any person wishing to object to the approval of these determinations of water right must do so in writing, briefly stating the nature of the objection and indicating the above applicant, property description and specific aquifers that are the subject of the objection. The objection must be accompanied by a \$10 fee per aquifer and must be received by the Commission Staff, Colorado Ground Water Commission, 1313 Sherman Street, Room 821, Denver, Colorado 80203, by May 12, 2019.

# PUBLISHER'S AFFIDAVIT

STATE OF COLORADO

COUNTY OF ADAMS

)SS

I, Douglas Claussen, Publisher & Editor, or

Laurel Steiner  
designated agent of the **Eastern Colorado News**, a weekly newspaper, printed and published in the **County of Adams and State of Colorado**, do hereby certify that the foregoing notice was published in said newspaper, published in the regular and entire issue of said newspaper, once each week for two successive weeks; that the first publication of said notice was in the issue of said newspaper date:

4/5/19  
and the last publication of said notice was in the issue of said newspaper date:

4/12/19  
and that copies of each number of said paper in which said notice and/or list(s) were published, and delivered by carriers or transmitted by mail to each of the subscribers of said paper, according to the accustomed mode of business in this office.

Laurel Steiner  
Agent Publisher/Editor

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 12<sup>th</sup> day of April, 2019

Renee Little  
Notary Public

3-2-2021  
(My Commission Expires — Date)

BEFORE THE COLORADO GROUND WATER COMMISSION

KIOWA-BUJOU DESIGNATED GROUND WATER BASIN AND NORTH KIOWA BUJOU GROUND WATER MANAGEMENT DISTRICT - ADAMS COUNTY

TAKE NOTICE that pursuant to Section 37 90 107(7), C.R.S., Henderson Aggregate, Ltd. (hereinafter "applicant") has applied for determinations of water right to allow the withdrawal of designated ground water from the Laramie-Fox Hills and Lower Arapahoe aquifers underlying 129.15 acres generally described as a portion of the E1/2 of Section 2, Township 3 South, Range 63 West of the 6th P.M. The applicant claims ownership of this land and control of the ground water in the above described aquifers under this property. The ground water from these allocations will be used on the described property for the following beneficial uses: domestic, commercial, industrial, irrigation, stock watering and replacement. The maximum allowable annual amount of ground water in the aquifer underlying the described property will be allocated.

In accordance with Section 37 90 107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410 1, the Colorado Ground Water Commission shall allocate ground water from the above aquifers based on ownership of the overlying land and an aquifer life of one hundred years. A preliminary evaluation of the application by the Commission Staff finds the annual amount of water available for allocation from the aquifers underlying the above-described property to be 24.2 acre-feet for the Laramie-Fox Hills aquifer and 17.6 acre-feet for the Lower Arapahoe aquifer, subject to final staff evaluation. The estimated available annual acre feet allocation for each aquifer may be increased or decreased by the Commission to conform to the actual aquifer characteristics, based upon site specific data.

In accordance with Rule 5.3.6 of the Designated Basin Rules, the Commission Staff's preliminary evaluation of the application finds the replacement water requirement status for the aquifers underlying the above-described property to be noncontributory for the Laramie-Fox Hills aquifer and noncontributory for the Lower Arapahoe aquifer.

Upon Commission approval of the determination of water right, well permits for wells to withdraw the allowed allocation shall be available upon application, subject to the conditions of the determination and the Designated Basin Rules and subject to approval by the Commission. Such wells must be completed in the aquifer and must be located on the above-described 129.15 acre property.

Any person wishing to object to the approval of these determinations of water right must do so in writing, briefly stating the nature of the objection and indicating the above applicant, property description and specific aquifers that are the subject of the objection. The objection must be accompanied by a \$10 fee per aquifer and must be received by the Commission Staff, Colorado Ground Water Commission, 1313 Sherman Street, Room 821, Denver, Colorado 80203, by May 12, 2019.

Legal #2215  
Published in the Eastern Colorado News on April 5, 2019 and April 12, 2019

RENEE LITTLE  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20004004755  
MY COMMISSION EXPIRES  
MARCH 2, 2021

RECEIVED

APR 16 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

I-70 Publishing Company, Inc.  
1522 Main St.  
P.O. Box 829  
Strasburg, CO 80136

RECEIVED

Invoice

APR 16 2019

Invoice #: 00000557

WATER RESOURCES  
STATE ENGINEER  
COLO

Bill To:

Ship To:

Colorado Division of Water Resources  
Attn: Ailis Thyne  
1313 Sherman St., Rm. 818  
Denver, CO 80203

Colorado Division of Water Resources  
Attn: Ailis Thyne  
1313 Sherman St., Rm. 818  
Denver, CO 80203

SALESPERSON		YOUR NO.	SHIP VIA	COL	PPD	SHIP DATE	TERMS		DATE	PG.
							Net 10		4/5/19	1
QTY.	ITEM NO.	DESCRIPTION			PRICE		UNIT	DISC %	EXTENDED	TX.
39	L2A	Legal 4/5/19			\$1.32				\$51.48	
39	L2B	Legal 4/12/19			\$0.90				\$35.10	
Legal #2215, Henderson Aggregate, Ltd.							Sale Amt.:		\$86.58	
							Freight:		\$0.00	
							Sales Tax:		\$0.00	
							Total Amt.:		\$86.58	
							Paid Today:		\$0.00	
							Balance Due:		\$86.58	





**COLORADO**  
Division of Water Resources  
Department of Natural Resources  
Colorado Ground Water Commission

RECEIVED

APR 29 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

April 17, 2019

Henderson Aggregate, Ltd.  
[nathan.phelps@deereault.com](mailto:nathan.phelps@deereault.com)

Invoice No. 19-PUB-82

INVOICE

Pursuant to Section 37-90-116, C.R.S., applicants are required to pay for the actual expense of publication for determinations of water right, well permit, and change of water right applications.

Your applications for determination of water rights to appropriate ground water from the Laramie-Fox Hills and Lower Arapahoe aquifers were published in Eastern Colorado News on April 5, 2019 and April 12, 2019.

The following cost was incurred:

1. Actual cost of publication: \$ 86.58
2. Additional fees: none

PAYABLE TO: DIVISION OF WATER RESOURCES \$ 86.58

Your application cannot be considered for approval until the charges are paid.  
*Please return the enclosed copy of this invoice with remittance within thirty (30) days.*

(A copy of the publication affidavit is enclosed for your records.)

Sincerely,

  
Ioana Comaniciu  
Water Resource Engineer

Enclosures: a/s

Transaction #: 3691603  
Date: 4/29/2019 9:42:59 AM  
Transaction Total: \$86.58  
CHECK #43283 \$86.58





## **APPENDIX C**

Form no. **COLORADO GROUND WATER COMMISSION**  
GWS-69 **DIVISION OF WATER RESOURCES**  
(5/2019) **DEPARTMENT OF NATURAL RESOURCES**  
**1313 Sherman St, Room 821, Denver, CO 80203**  
**(303) 866-3581, [dwr.colorado.gov](http://dwr.colorado.gov), [dwrpermitsonline@state.co.us](mailto:dwrpermitsonline@state.co.us)**

## APPLICATION FOR A REPLACEMENT PLAN WITHIN A DESIGNATED GROUND WATER BASIN

NOTE: This application may only be used to request Ground Water Commission approval of a replacement plan within a Designated Ground Water Basin pursuant to Section 37-90-107.5, C.R.S. Review the instructions on the reverse of this form. This form must be completed, signed, dated and submitted to the Commission with a non-refundable \$100 filing fee. Type or print in black ink.

### 1. APPLICANT INFORMATION

Name of Applicant Martin Marietta c/o John Anderson			
Mailing Address 1627 Cole Blvd., Ste. 200	City Lakewood	State CO	Zip Code 80401
Telephone Number (include area code) (720)-245-6423- 6410		Email james.sharn@martinmarietta.com	

### 2. AQUIFER AND GENERAL DESCRIPTION OF THE LOCATION OF THE PLAN

Aquifer in which the plan will operate: Lower Arapahoe within the Kiowa-Bijou Designated Basin

County: Adams Section 2, Township 3 N ☐ S ☒, Range 63 W

### 3 THE FOLLOWING MUST BE PROVIDED AS ATTACHEMENTS TO THIS APPLICATION

- A. A report containing all information required to be submitted for a replacement plan as required by Designated Basin Rule 5.6.2 (Rule 5.6.2 is provided as an attachment to this form).
- B. If the replacement plan is for the purpose of allowing withdrawals of ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifer pursuant to Section 37-90-107(7), C.R.S. and in accordance with Designated Basin Rule 5.3.6.2.C, indicate the subject aquifer, the approved determination of water right or pending application for such determination, and provide a table showing the first 100 years of annual depletions to affected alluvial aquifer(s) caused by proposed pumping during the first 100 years, and if pumping continues beyond 100 years the annual depletions to affected alluvial aquifer(s) until pumping ceases.

**4. SIGNATURE** – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.

Signature:  Date: 7/19/2024

Print name and title: JOHN ANDERSON VP/GM Rocky Mountain Lodging

FOR OFFICE USE ONLY