

DISTRICT COURT, WATER DIVISION 3, STATE OF COLORADO

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS FILED IN WATER DIVISION 3.

Pursuant to C.R.S. 37-92-302(3), you are notified that the following is a resume in Water Division 3, containing notice of all applications, amended applications and requests for correction filed in the office of the Water Clerk during the month of May, 2004.

The names and addresses of applicants, description of water rights, or conditional water rights involved, and description of ruling sought, are as follows:

Case Number 2004CW18, David Vaughn Miller, 495 Main, Sanford, CO 81151, (719) 274-4439. (atty: Byron L. Miller, P.O. Box 37, Sanford, CO 81151, (719) 274-5158) APPLICATION FOR CHANGE OF WATER RIGHT in Conejos County

Decreed name of structure for which change is sought: Well No. 1, W-2503.
From Previous Decree: Date Entered: July 22, 1975, Case No. W-2503, Court: Water Division 3. Decreed Point of Diversion: SW1/4 SW1/4, Section 32, Township 36 North, Range 10 East, NMPM, at a point 20 feet from South Section Line and 60 feet from West Section Line. Source: Confined Aquifer.
Appropriation Date: May 31, 1951. Historical use: The water from this well has been used to irrigate the land commonly referred to by the locals as the "Hank's Ranch." The legal description of this land is: Parcel Number 5557-32 &33, S 1/2 33-36-10 NMPM TNA 320, SE1/4 NE1/4 32-36-10 NMPM TNA 40, S1/2 NE1/4 32-36-10 NMPM TNA 80, S1/2 32-36-10 NMPM TNA 320. Originally, the well irrigated land by means of flood irrigation. Irrigated land produced alfalfa, grain, and grass for cattle crazing. After a change of ownership in 1972, 3 sprinklers were installed. Said sprinklers accomplish the vast majority of irrigation. Flood irrigation is still used on corners and to flood meadows. Proposed Change: Change of use. The current permit for well 1, W-2503 allows applicant to use 2925 gallons per minute for irrigation over all areas of the applicant's land. Applicant proposes a partial change of use that allows applicant to use 400 gallons per minute of water traditionally used for irrigation for aquiculture. Applicant wishes to produce trout for stocking of lakes and rivers and for food distribution. The fish will be raised from November 1 through April 1 of each year. Applicant proposes to initially use the existing irrigation pond located in the NW portion of the SW1/4 of Section 32. A pipeline will be installed directly from the well to the pond. The surface area of the pond is approximately 1.2 acres. Concrete tanks will ultimately replace the existing pond, but the surface area should remain nearly the same. Surface aerators will be used to supply oxygen to the fish. Water will be recycled and then emptied into the La Jara Creek. Applicant proposes to maintain 400 gallons per minute from the well to the ponds/tanks. The well is currently equipped with a variable frequency drive that

allows operator to have complete control of well flows. Applicant received engineering services from Davis Engineering Service Inc. From the engineering study, the estimated consumptive use of the fish farm would be 2.2 acre-feet annually. This figure represents evaporative loss. However, since it is difficult if not impossible to ascertain from which system the water originates, applicant may not be able to return the unconsumed water back into the original system. Therefore, applicant will consider all water used in fish farming operations as consumptive. The total consumptive use will be 266.92 acre-feet annually. To compensate for water consumed applicant proposes to "dry up" historically irrigated land. According to the engineering study, for every one acre-foot of water consumed applicant must dry up .7091 acres of hay/grass or .5682 acres of alfalfa. Applicant will dry up 175.9 acres of traditionally irrigated hay/grass land and 10.7 acres of alfalfa. Proposed acres to be dried up are available at water court. Name and address of owner of land on which structure is or will be located, upon which water is or will be stored, or upon which will be placed to beneficial use: Applicant is the owner of land on which well is located. (10 exhibits on file at water court)
(21 pages including attachments)

Case No. 2002CW36, Ken Smith, dba Center Redi-Mix, Inc., 1540 W. Highway 112, P.O. Box 608, Center, Colorado 81125 (atty: Ed Lobato, P.O. Box 1320, Alamosa, CO 81101)

Second Amended Application for Change of Water Rights and Approval of Plan of Augmentation in Rio Grande County

PLAN FOR AUGMENTATION

2. Name of Structure To Be Augmented:
 - A. Proposed Center Redi Mix Well No. 1
 - (1) Location: SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2, T. 40 N., R. 7 E., N.M.P.M., 2600 feet from the north section line and 2630 feet from the east section line, Rio Grande County, Colorado.
 - (2) Flow rate: 500 g.p.m.
 - (3) Source: Unconfined aquifer.

3. Water Rights To Be Used For Augmentation:
 - A. Irrigation water rights for Well No. 1 (Reg. # 13251-R):
 - (1) Date decreed: August 31, 1973; Case No. W-723, Water Division .
 - (2) Location: SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, T. 40 N., R. 7 E., N.M.P.M., approximately 2350 feet from the north section line and approximately 100 feet from the west section line, Rio Grande County, Colorado.
 - (3) Source: Unconfined aquifer.
 - (4) Appropriation date: June 15, 1949.
 - (5) Amount: 1400 gpm

- (5) Decreed Use: Irrigation.
- (6) Historical use: Together with 10 shares of Rio Grande Canal Water Users Association irrigated the entire NW $\frac{1}{4}$ Section 11, T. 40 N., R. 7 E., N.M.P.M. with the exception of the area utilized by the Farmers Union Canal and a home site located on the west side of the canal in the southwest corner of said NW $\frac{1}{4}$ Section 11. Only unconfined well water rights will be used for augmentation.

4. Historical Use of Augmentation Water Rights:

A. The water rights described in Paragraph 3 above have been used to irrigate the entirety of the NW $\frac{1}{4}$ Section 11, T. 40 N. R. 7 E., N.M.P.M. with the exception of easements and rights of ways located on the quarters. Typical crops included potatoes, grains, alfalfa and some vegetables. As described in more detail later in this section, a significant portion of the irrigation water supply for this quarter has been derived from an unconfined aquifer well drilled in 1949. The source of water for this augmentation plan is the portion of water from this well that was used to irrigate the corners outside the areas irrigated with center pivot sprinklers during the period 1950 - 1983. The corners will be dried up as part of this plan. The average annual quantity of water derived from unconfined wells and used for irrigation of these corners before center pivot sprinklers is derived in a historical irrigation use analysis by Davis Engineering Service, Inc. supporting this augmentation plan. The historical use of water rights and descriptions of the tract to be dried up are contained in the following subparagraph.

(1) Tract 1, containing at least 25 acres that were historically irrigated during the period 1950 to 1983, is located in the NW $\frac{1}{4}$ Section 11, T. 40 N., R. 7 E., N.M.P.M., Rio Grande County, Colorado and consists of all the corners outside the area irrigated by the center pivot with the exception of the southwest corner. The portion of the historical crop consumptive use supplied by unconfined Well No. 1, Case No. W-723 on Tract 1 averages 8.66 acre-feet per year.

B. The total amount of consumptive use credit available from the described tract for augmentation of depletions pursuant to this plan totals 8.66 acre-feet per year.

5. Statement of Plan for Augmentation:

A. General Description of Water Supply:

Applicant seeks to utilize its water rights to meet the needs of a concrete batch plant operation, washing gravel, evaporation from exposed groundwater in its gravel pit and dust suppression all on the applicant's property located in portions of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ all in Section 2, T. 40 N., R. 7 E., N.M.P.M., which comprises

approximately 13.43 acres. To supply water for these needs, a new unconfined aquifer well will be utilized.

B. Water Requirements and Estimated Consumptive Use:

Applicant proposes to pump from a proposed unconfined aquifer well to supply water for the concrete batch plant and gravel washing to produce up to 15,000 cubic yards of concrete annually and dust suppression. Total well withdrawals will equal approximately 17 acre-feet per year. Plant and dust suppression consumptive use is 2.40 acre-feet per year and 0.43 acre-feet per year, respectively. Average annual evaporation from the gravel pit pond surface will be 4.94 acre-feet per year. Therefore, total water depletions will not exceed 7.77 acre-feet per year.

C. Operation of Augmentation Plan:

Applicant will dry up the lands historically irrigated as described in paragraphs 4. A. (1) above totaling 25 acres, which were historically irrigated through the use of the subject water rights. The historical average annual consumption of unconfined aquifer well water on this acreage was 8.66 acre-feet per year. This augmentation credit water will be used to offset and replace water depletions from concrete batch plant, gravel washing, pond evaporation and dust suppression totaling 7.77 acre-feet per year. The apparent excess replacement water of 0.89 acre-feet per year will be reserved and utilized to offset any inaccurate estimates that may be found during the actual operation of this plan.

Since the exposure of the groundwater in the pit nearly coincides with the irrigation season, and historically utilized irrigation water is the water supply source, depletion and replacement occur at nearly the same time. Production of concrete also generally coincides with irrigation season because the very cold weather in the San Luis Valley stops most concrete construction during the winter. Therefore, no water storage or release schedule is necessary to provide water during the time of depletion.

This augmentation plan will be administered pursuant to a system approved by the Division Engineer for Water Division No. 3. The accounting system will be calculated and recorded at least monthly including: 1) all diversions from the water supply well; 2) concrete produced; 3) water level in the gravel pit pond and resulting evaporation.

The applicant asserts that all vested water rights will be protected from injury and a result of the proposed plan of augmentation.

CHANGES OF WATER RIGHT

7. Proposed Change: Applicant requests a change of type of use for a portion of Well No. 1, Case No. W-723, (Reg. # 13251-R) water rights.

- A. Applicant seeks to utilize its water rights to meet the needs of a concrete batch plant operation, gravel washing, evaporation from exposed groundwater in its gravel pit and dust suppression all on the applicant's property located in portions of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ all in Section 2, Township 40 North, Range 7 East, N.M.P.M., which comprises approximately 13.43 acres.
- B. Applicant proposes to pump from proposed unconfined aquifer Center Redi Mix Well No. 1 to supply water for the concrete batch plant to produce up to 15,000 cubic yards of concrete annually. Total annual plant water use will be 2.40 acre-feet per year. Water for dust suppression will be 0.43 acre-feet per year. Average annual evaporation from the gravel pit pond surface will be 4.94 acre-feet per year. Therefore, total water depletions will not exceed 7.77 acre-feet per year.
- C. Applicant will obtain a new well permit for the proposed well reflecting the new water use.

8. Change in Point of Diversion and Type of Use – Augmentation Water Rights:

A. Decreed Structures For Which Changes Are Sought:

Portion of Well No. 1, Case No. w-723, described in paragraphs 3.A. above.

B. Proposed Changes:

Change in location of use will be from locations described in paragraphs 3.A. above to the location of the new well described in paragraph 2.A. above and the Applicant's property located in portions of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ all in Section 2, T. 40 N., R. 7 E., N.M.P.M., which comprises approximately 13.43 acres.

Change in water use will be from irrigation to applicant's commercial and augmentation on pond evaporation needs as described in paragraph 7. above.

(6 pages including attachments)

THE WATER RIGHTS CLAIMED BY THESE APPLICATIONS MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED

**RIGHTS MUST APPEAR TO OBJECT WITHIN THE TIME PROVIDED BY
STATUTE OR BE FOREVER BARRED.**

You are further notified that you have until the last day of July, 2004, to file with the Water Clerk, in quadruplicate, a verified statement of opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a statement of opposition must also be served upon the Applicant or the Applicant's attorney and an affidavit or certificate of such service must be filed with the Water Clerk. A **\$70.00** filing fee is required.

You can review the complete applications in the office of the Alamosa Combined Court, 702 Fourth St., Alamosa, CO 81101.

Witness my hand and seal of this Court this 11th day of June, 2004.

Shirley Skinner, Clerk of the Court
Alamosa Combined Courts
Water Court, Water Division 3
702 Fourth Street, Alamosa, CO 81101

Seal

WATER DIVISION 3
STATE OF COLORADO
CERTIFICATE OF MAILING

I, Shirley Skinner, Clerk of the Alamosa Combined Courts, Water Court, Water Division 3, do hereby certify that I have on this 11th day of June, 2004, mailed by United States mail, postage prepaid, a true and correct copy of the Resume of Applications and Amended Applications filed during May, 2004, dated June 11, 2004, for publication, once, or portions of said resume as the same applies to each respective case as shown by the Order of Publication filed and entered in each case.

I further certify that I have also mailed a full, true and correct copy of said Resume, by United States mail, postage prepaid, to each individual or firm whose name appears on the Mailing List for Water Division 3.

Witness my hand and seal of this Court this 11th day of June, 2004.

Shirley Skinner
Clerk of the Alamosa Combined Courts
Water Court, Water Division 3
702 Fourth Street
Alamosa, Colorado 81101