GENERAL ECOLOGICAL RESOURCES SURVEY

15.976 Acres in Section 8, Township 2 North, Range 69 West Boulder County, Colorado 80503



PREPARED FOR:

Modern West Properties, LLC

1727 15th Street, Suite 100 Boulder, Colorado 80302

WESTERN ENVIRONMENT AND ECOLOGY, INC.

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Western Environment and Ecology, Inc. Project Number: 745-001-02

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Modern West Properties, LLC

1727 15th Street, Suite 100 Boulder, Colorado 80302

May 18th, 2017

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1.0 INTRODUCTION

Western Environment and Ecology, Inc. (Western Environment) was retained by Mr. Todd Borger on behalf of Modern West Properties, LLC, the current owner of the property, to conduct a general survey of ecological resources, including threatened and endangered species, wetlands, and other significant habitats, on approximately 15.976 acres in Unincorporated Boulder County, Colorado. Mr. Borger indicated that this study was in response to the potential annexation to the City of Longmont and commercial redevelopment of the property.

The objectives of this study were to (1) establish presence/absence and potential habitat of any federal or state threatened and endangered species on the property, (2) identify any wetlands or other ecologically sensitive areas on and adjacent to the property, and (3) make practical recommendations based on the results of the study.



View of the property from the northwest

2.0 STUDY AREA

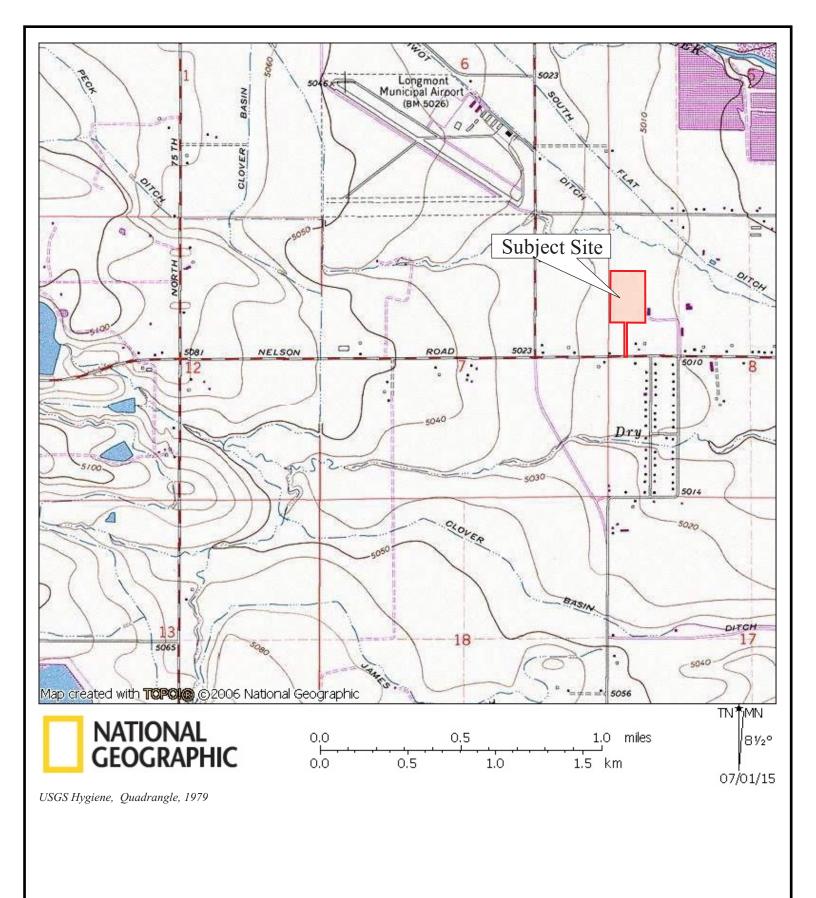
This Phase I Environmental Site Assessment was conducted for approximately 15.976 acres within Section 8, Township 2 North, Range 69 West, Boulder County, Colorado (Figure 1). The subject property is located northwest of the intersection of Schlagel Street and Nelson Road (Figure 2). The Boulder County Assessors Office identifies no current structures on the site.

Agricultural property surrounds the site to the north south and east, with single family residences present to the southwest and southeast. A self storage and recreational vehicle storage lot is located adjacent to the east. The Niwot Ditch is present approximately 400 feet north of the property. The Longmont Vance Brand Municipal Airport is located approximately 2,000 feet to the northwest.

At the time of this assessment, the majority of the property was dominated by short grazed grasses. Cottonwood trees and woody sapling vegetation were present along the access road that extends south of the property to Nelson Road and along the eastern boundary.

The site occurs at an elevation of approximately 5,015 feet above sea level (USGS Hygiene 7.5 Minute Quadrangle, 1979). The topography is generally flat, with a gradual slope to the northeast, towards the Saint Vrain Creek 3/4 of an mile to the northeast. Review of the Federal Emergency Management Agency (FEMA) Flood Insurance Maps (attached) indicated that the site is outside of the 100 year flood zone. The US Resource Conservation Service classifies the majority of the site soils as a Nunn-Kim complex overlaying the Cretaceous Age Pierre Shale Formation (Tweto, Ogden 1979).

Review of the Colorado Division of Water Resources records identified a domestic well adjacent to the southeast corner of the site. The lithologic log prepared for the well (attached) indicated that site geology includes sand and gravel from the surface to 29 feet where weathered claystone was encountered. The Cretaceous Age Pierre Shale formation occurred at 43 feet. Static groundwater was encountered at 17.0 feet below grade.

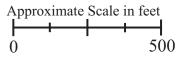


WESTERN ENVIRONMENT AND ECOLOGY, INC. 2217 West Powers Avenue Littleton, Colorado 80120

Figure 1 - Site Location Map 15.976 Acres within Section 8, Township 2 North, Range 69 West, Boulder County, Colorado 80503







WESTERN ENVIRONMENT AND ECOLOGY, INC. 2217 West Powers Avenue Littleton, Colorado 80120

Figure 2 - Site Map 15.976 Acres within Section 8, Township 2 North, Range 69 West, Boulder County, Colorado 80503

3.0 METHODS

Species that are federally or state listed as threatened or endangered, including federally proposed and candidate species, occurring or having historically occurred in Boulder County were considered for this study (Table 1). The County classification was determined by following the Colorado Field Office of the U.S. Fish and Wildlife Service's county checklist (USFWS, 2011). The list was narrowed based on habitat requirements of the species relative to existing habitats on the project.

The property was surveyed on April 26th, 2017. Information was collected on topography, ecosystems, and species of flora and fauna found on and adjacent to the property. Photographs were taken, and emphasis was placed on potential habitat of threatened and endangered species, and the presence of wetlands.



View of irrigation ditch terminus on the property

Table 1. Common name, scientific name, and status of federal and state threatened and endangered species that could occur or historically occurred in the Colorado Piedmont (CDOW, 2008; USFWS, 2008).

Common Name	Scientific Name	Status ¹
Birds		
Bald eagle	Haliaeetus leucocephalus	ST
Whooping crane	Grus americana tabida	FE, SE
Least Tern	Sterna antillarum	FE, SE
Mountain plover	Charadrius montanus	FPT, SC
Piping plover	Charadrius melodus	FT, ST
Mexican spotted owl	Strix occidentalis lucida	FT, ST
Plains Sharp-Tailed Grouse	Tympanuchus phasianellus jamesii	SE
Western burrowing owl	Athene cunicularia	ST
Lesser Prairie Chicken	Tympanuchus pallidicinctus	ST
Ferruginous Hawk	Buteo regalis	SC
Mammals		
Black-footed ferret	Mustela nigripes	FE, SE
Preble's meadow jumping mouse	Zapus hudsonius preblei	FT, ST
Canada Lynx	Lynx canadensis	FT, SE
Kit Fox	Vulpes macrotis	SE
Black-tailed prairie dog	Cynomys ludovicianus	SC
Amphibians		
Boreal Toad	Bufo boreas boreas	SE
Northern Leopard Frog	Rana pipiens	SC
Plants		
Ute ladies'-tresses	Spiranthes diluvialis	FT
Colorado butterfly plant	Gaura neomexicana coloradensis	FT
Insects		
Pawnee montane skipper	Hesperia leonardus montana	FT

¹Status Codes: FE = Federally Endangered, FT = Federally Threatened, FPT = Federally Proposed as Threatened, FC = Federal Candidate, SE = State Endangered, ST = State Threatened, SC = State Concerned

4.0 RESULTS AND DISCUSSION

4.1 Wetlands

No perennial waters were observed on or directly adjacent to the project. However, an irrigation ditch system bordered the property to the north and west, and bisected the center of the site from the west to the east, terminating in the eastern portion of the property. Several head gates were observed within the ditch. Additionally, Niwot Ditch is located approximately 500 feet northeast of the property (Figure 2). Niwot Ditch does contain wetland type vegetation, including Eastern Cottonwood (*Populus deltoides*) and Nebraska Sedge (*Carex nebrascensis*). At the time of the inspection, the Niwot Ditch was dry.

The U.S. Army Corps of Engineers (Corps) regulates the discharge of dredged or fill materials into Waters of the U.S. or within the 100-year flood plain, under the authority of Section 404 of the Clean Water Act. Waters of the U.S. include ephemeral, intermittent and perennial streams, their surface connected wetlands and adjacent wetlands, certain lakes, ponds, drainage ditches and irrigation ditches that have a nexus to interstate commerce.

Western Environment evaluated, to the best of our ability based upon site conditions at the time of the survey, the three components of a jurisdictional wetland as defined in the US Army Corp of Engineers, (ACOE) Wetland Delineation Manual (1987). These components are:

1) Vegetation, 2) Soil and 3) Hydrology. The ACOE Manual defines *Nonwetlands* as "including upland areas that are neither deepwater aquatic habitats, wetlands, nor other special aquatic sites. They are seldom or never inundated, or if frequently inundated, they have saturated soils for only brief periods during the growing season, and, if vegetated, they normally support a prevalence of vegetation typically adapted for life only in aerobic soil conditions."

It is the opinion of Western Environment that the property does not contain "Waters of the U.S." and therefore is not subject to Corps regulations under Section 404 of the Clean Water Act.

4.2 Wildlife Species Eliminated from Consideration as Occurring on the Project

The following threatened and endangered species that have historically been thought to occur in Boulder County were immediately ruled out of serious consideration for this project based on available habitat: Mexican spotted owl, whooping crane, least tern, Canada lynx, kit fox, black-footed ferret, boreal toad, Pawnee montane skipper, and Colorado butterfly plant.

The Mexican spotted owl was eliminated because it requires forests that are not present on the project. The whooping crane was also eliminated due to rarity in Colorado, and no known nesting or feeding habitat exists on or adjacent to the property. Less than 20 sightings of whooping cranes along the eastern plains and mountainous regions of Colorado have been recorded since 1931 (Andrews and Righter, 1992). The least tern inhabits sandy shorelines of reservoirs, lakes, and rivers with bare sandy shorelines. This shore bird is a casual to very rare spring and fall migrant on the northeastern plains of Colorado, and is unlikely to occur on the subject project.

The Canada lynx is a rare forest-dwelling species of northern latitudes that feeds primarily on snowshoe hares. No lynx habitat or its prey exist on the subject site. The kit fox is only known to occur on Colorado's desert slopes ranging from Montrose to Grand Junction. The black-footed ferret, which was eradicated from the Colorado Piedmont, has only been recently reintroduced in small numbers in northern Larimer and Weld Counties. These are experimental populations under study by the US Fish and Wildlife Service (USFWS).

Colorado's only alpine species of toad, the boreal toad, has been found in spruce-fir forests and alpine meadows at elevations between 7,000 and 12,000 feet. The toad also requires lakes, marshes, ponds, or bogs with shallow water for breeding. These habitats do not exist on the property.

The Colorado butterfly plant has only been found in northern Larimer County in recent years and is generally associated with streams that do not exist onsite (Colorado Native Plant Society 1997).

The Pawnee montane skipper occurs in dry, open Ponderosa pine woodlands at an elevation range of 6,000 to 7,000 feet within the Pikes Peak Granite formation. Assessment of the skipper indicates that the insect's habitat is centered near Deckers, Colorado, with their range estimated to be 37.9 square miles (USFWS, 1998).

4.3 Species Included in Survey

Western Burrowing Owl (Athene cunicularia)

State Threatened

The burrowing owl is found primarily in eastern Colorado as a summer resident. Two aspects of the biology of the western burrowing owl appear to influence both its regional and local abundance: 1) it prefers areas of short vegetation, and 2) it rarely, if ever, digs its own burrows. Historically, burrowing owls were common wherever there were prairie dog colonies in northeastern Colorado. No prairie dog colonies were observed on or adjacent to the project. This migratory species is most often seen in Colorado during the summer months. No burrowing owl habitat was seen in proximity to the project.



Western burrowing owl, photo acquired on www.corbis.com.

Bald Eagle (Haliaeetus leucocephalus)

State Threatened

The bald eagle was removed from the Federal Endangered and Threatened Species List on July 9th, 2007. Western Environment reviewed data maintained by the Colorado Division of Parks and Wildlife (CPW 2015) and identified and active bald eagle nest approximately 4.60 miles to the east and roosting sites 3/4 of a mile to the northeast along the Saint Vrain Creek. The CPW recommends seasonal restrictions of a ½ mile for development adjacent to roosting sites.

Mountain Plover (Charadrius montanus)

State Concerned Species

Typical habitat characteristics of the mountain plover are a mixture of short vegetation, bare ground, and a flat topography at both breeding and wintering locations. This small

shorebird breeds in Colorado, and in parts of its breeding range the species commonly shows a preference for prairie dog towns and sites that are heavily grazed by domestic livestock. Prairie dog grazing promotes the short grasses that the plover prefers, and their digging creates areas of bare soil important for plover nesting. Mountain plovers were proposed for federal listing as threatened on February 16th, 1999 (USFWS, 1999), however the U.S. Fish and Wildlife Service withdrew the proposal on September 8th, 2003. Mountain plovers breed in Eastern Colorado from approximately April 1st through August 1st. No habitat conducive to Mountain Plovers was observed on the project.

Piping Plover (Charadrius melodus)

Federally Threatened, State Threatened

This small shorebird can be found on very sparsely vegetated beaches, mudflats and sandy areas near water on shores and islands. Piping Plovers usually arrive in Colorado in late April or early May, and leave when the nesting cycle is completed, or by late August. Nesting populations have been documented in eastern Colorado along the South Platte and Arkansas River drainages. Food sources for Piping Plovers include insects, crustaceans and other small aquatic animals. Plovers feed along beaches, especially in areas where waves have washed up debris (CDOW, 1994). Due to the lack of sandbars or mud-flats in the vicinity of the project, Piping Plover are unlikely to occur.

Plains Sharp-Tailed Grouse (Tympanuchus phasianellus jamesii)

State Endangered

The Plains Sharp-Tailed Grouse historically occurred on Colorado's eastern grasslands. Grouse habitat is characterized by rolling hills with Gambles oak, sage brush, service berries and grassy glades. This grouse is a resident from Alaska east to the Hudson Bay, and south to northern New Mexico. Currently, Colorado populations occur in Douglas County, northern and eastern Weld County, and Logan County east of Sterling. No known populations of the Plains Sharp-Tailed Grouse are known to occur in proximity to the subject project (CDOW, 2015).

Lesser Prairie Chicken (Tympanuchus pallidicinctus)

State Threatened

Historically, this bird occupied the grasslands of Texas, Oklahoma, New Mexico, Kansas and southeastern Colorado. It prefers sandy grassland areas abundant in midgrasses, sandsage and yucca. The majority of Colorado breeding pairs occur in the southeastern portion of the state in Baca, Prowers, Kiowa and Cheyenne Counties, and for the most part, on the Comanche National Grasslands near Campo. No populations of the Plains Sharp-Tailed Grouse are known to occur in proximity to the subject project (CDOW, 2015).

Preble's Meadow Jumping Mouse (Zapus hudsonius preblei)

Federally Threatened, State Threatened

Typical Preble's habitat has been described as "well-developed plains riparian vegetation with relatively undisturbed grassland and a water source in close proximity," and "dense herbaceous vegetation consisting of a variety of grasses, forbs and thick shrubs" (Armstrong et al., 1997). Although any vegetation could offer cover and hibernacula for Preble's, the species is mostly known from habitat containing shrub cover, such as willow or narrow-leaf cottonwood.



Preble's meadow jumping mouse

Preble's are known to regularly range outward into adjacent uplands to feed and hibernate. For this reason, the U.S. Fish and Wildlife Service generally requires a 300 foot development buffer from the edge of the 100 year flood plain. The subject property is located in proximity to Niwot Ditch, but occurs outside the 300 foot of the 100 year flood plain. Although Niwot Ditch contains marginal Preble's habitat, it is the opinion of Western Environment that due to significant fragmentation from development, both east and west of the site, **it is unlikely that Preble's occur on the site**.

Ferruginous Hawk (Buteo regalis)

State Concerned

This hawk is known to occur throughout eastern Colorado and in northwestern Colorado. In Colorado, the species is a common winter resident, but is considered an uncommon summer resident on the eastern plains (Andrews and Righter, 1992). Areas that could be potential nesting sites include large trees, rock outcrops, manmade structures such as windmills and power poles, or the ground. These birds often can be seen associated with prairie dog colonies, which they utilize for foraging. This hawk, as are all birds of prey, is federally protected under the Migratory Bird Species Act. No Ferruginous Hawk habitat was observed on or near the site.

Black-tailed Prairie Dog (Cynomys ludovicianus)

Former Candidate for Federal Listing, State Concerned

The U.S. Fish and Wildlife Service was petitioned to list the black-tailed prairie dog as a threatened species in July of 1998. The agency determined on February 3rd, 2000, that listing the species was warranted, but it is precluded by other species in greater need of protection (USFWS, 2000). The black-tailed prairie dog was added to the candidate list, and the species' status was reviewed annually. On August 12th, 2004 the USFWS determined that the black-tailed prairie dog no longer meets the Endangered Species Act definition as threatened, and was removed as a candidate for federal listing. No prairie dogs were observed on or adjacent to the property.

Ute Ladies'-Tresses Orchid (Spiranthes diluvialis)

Federally Threatened

This orchid usually occurs in "...old stream channels, alluvial terraces, wet meadows, and other sites where the soil is saturated to within 18" of the surface at least temporarily during the growing seasons" (USFWS, 1992). The eastern Colorado populations of species are located in mesic riparian meadows in relict tall grass prairie areas near Boulder Creek, South Boulder Creek, and Saint Vrain Creek in Boulder County, Colorado, and in mesic meadows in the riparian woodland under story along Clear Creek in Jefferson County, Colorado (USFWS 50 CFR Part 17). One population was historically identified in Weld County east of Greeley near

Crow Creek in 1856, but is now considered extirpated. Soil conditions and vegetation composition of known *Spiranthes* sites suggest that wetlands regulated by the Corps under the Clean Water Act qualify as potential *Spiranthes* habitat. Orchid surveys are required in Boulder and Jefferson Counties, and in the 100-year flood plains and perennial tributaries of the South Platte River, Fountain Creek, and the Yampa Rivers if construction is expected to impact these areas (USFWS 1992). Generally, these surveys must be completed during blooming season (July 20th to August 31st). It should be noted that the survey is only required in areas where proposed construction activities are to occur in potential *Spiranthes* habitat, and only when a **Federal**



Ute Ladies'-Tresses Orchid

permit (for instance a permit to place fill materials into a Waters of the U.S. under Section 404 of the Clean Water Act) or **Federal** funding is utilized for an activity in those habitats. If a Federal permit or funding is needed for an activity on the project, the agency responsible for issuing the permit or providing the funds would consult the Service to determine how the action may affect the species or its designated critical habitat. The Service would then work with the agency and/or landowner to modify the project and minimize impacts. No perennial waters occur on the property, and no known populations of *Spiranthes* occur near the subject site. **It is the opinion of Western Environment that** *Spiranthes* **does not inhabit the project.**

Other Wildlife

No other wildlife was observed during the site inspection.

5.0 CONCLUSIONS AND RECOMMENDATIONS

At the time of the survey, no threatened or endangered species or their obvious habitat were seen on the subject site. Additionally, no wetlands or Waters of the U.S. subject to regulation under Section 404 of the Clean Water Act occur on the project.

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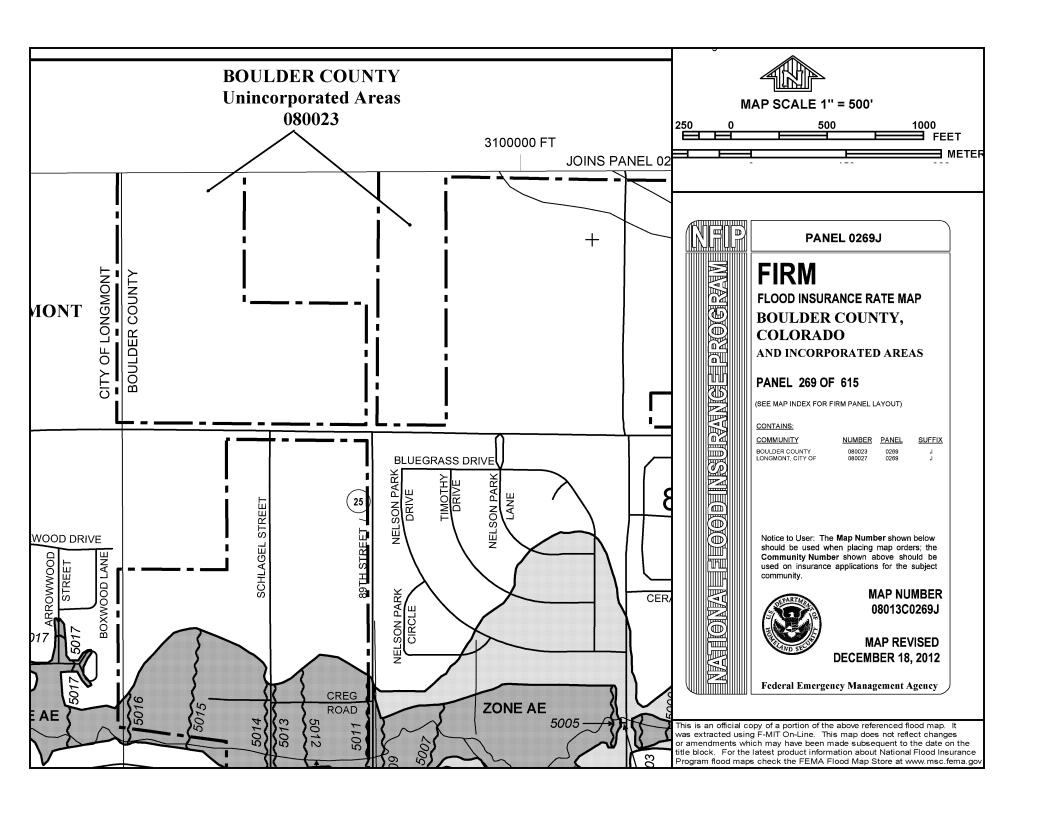
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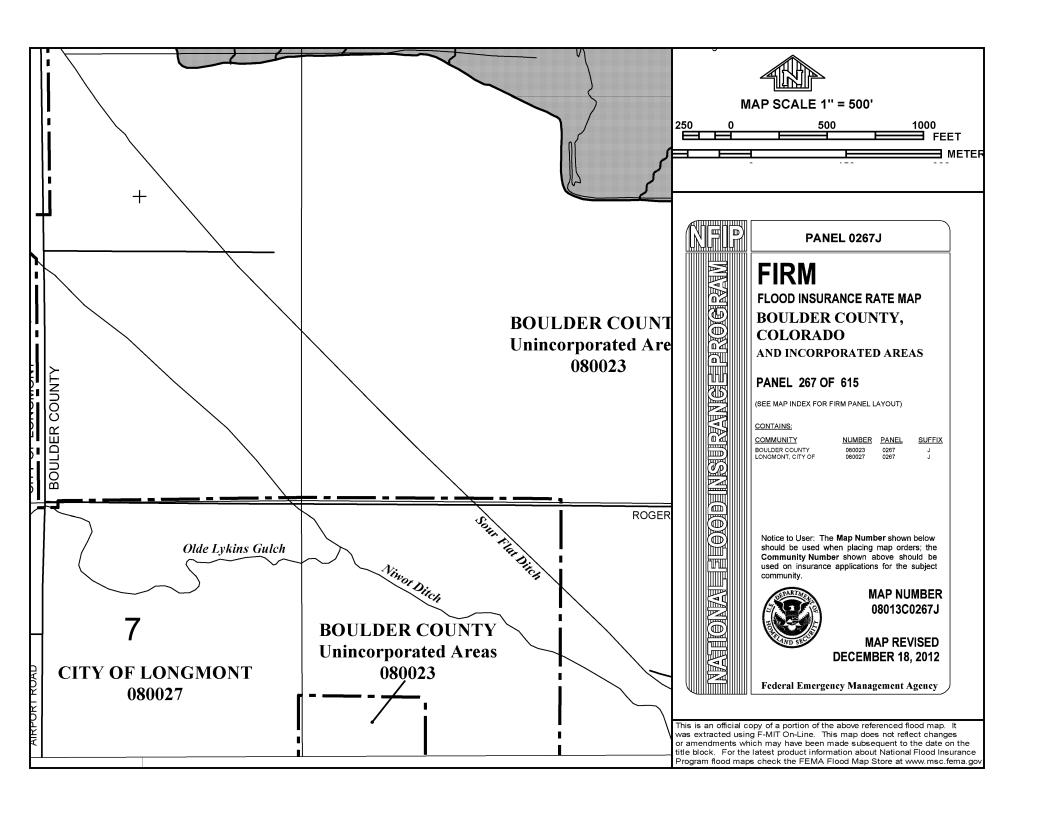
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Applicant <u>Lc.</u> P.O. Address Quantity applie	Ot 2 Box 139H, Coup ed for 28 gpm or AF Storage	PERMI PERMI	T TO USE GROUND WATER MAY 4 1966 T TO CONSTRUCT A WELL MAY 4 1966
Total acreage ESTIM Hole size: 9	_in. toft.	g and History (For) completion of well,	Street Address or Lot & Block No. Town or Subdivision N Locate
Open or Perf. PUMP DATA: Type	in. from to 10 ft. in. from to 40 ft. in. from to 40 ft. in. from to ft. Outlet .HP_Size chall pages for additional data)	er to furnish Lo n 30 days after	well in 40 acre (small) square as near as possible. Large square is one section.
· ·	PPLICATION APPROVED NO. 27109 MAY 4 1966 19	II &	\$25.00 fee required for uses other than Domestic or Livestock. Applicant Agent or Driller Marshall Delling No. 84

NOTE - SATISFACTORY COMPLETION REQUIRED FOR APPROVAL OF APPLICATION

____SUBDIVISION

LOG AND HISTORY

WELL LOG

WELL DATA

Gro	ound I	Elevation		Date Started 5 - 14 - 66	
$\mathbf{T}\mathbf{y}_{\mathbf{I}}$	e Dr	illing	1 A - A - A		Date Completed 5-14-66
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-					TEST DATA Date Tested 5-14-66 Type of Pump Centrifuga Length of Test 4- hrs Constant Yield 30 Drawdown 2'
					PUMP DATA (To be filled in) Type of Pump Not yet installed Outlet Size Driven by Horsepower
Use a		onal paper if necessary to		DEPTH TO WATER 120	
State Count	of Co y of _	lorado). ss			being duly sworn, deposes and
says: conte	he is nt the	s the driller of the above d reof, and the same is true	e of his c	i well; ho wn know	has read the above map and statement, knows the ledge.
			`		James C. Marshall License No. 84
Subscribed and sworn to before me this					day of, 19
Му С	ommi	ssion expires	,	Notary Public	
2027		NADE OUT IN OUADBUBUCA	Tr		

Original WHITE (both sides) & Triplicate GREEN Copy must be filed with the State Engineer within 30-days after well is completed. Duplicate PINK copy is for the Owner & YELLOW copy for the Driller. WHITE FORM MUST BE AN ORIGINAL COPY ON BOTH SIDES AND SIGNED.