

Alsop Sand Co. Inc.
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February 14, 2012

Good Morning, Mr. Chairman, Members of the Committee, Ladies & Gentlemen.

I am Dane Barclay, President of Alsop Sand Co., Vice President of the Kansas Aggregate Producers Assoc. and a third generation sand producer; we operate sand plants at Scandia, Concordia, Clay Center, Abilene, Salina and a few remote part time sites.

Most of our sites are in narrow river valleys. And the sand is extracted from below water with a floating machine called a dredge. Some pictures are attached to my testimony that might help you visualize our operations.

If you can envision a giant wet vacuum sweeper that is capable of sucking a sand and water in slurry from 40 feet below water and pushing the slurry up a pipeline to a processing plant where the sand is sorted according to size, washed and stockpiled for future use, then you have a basic idea of what we do.

I have left out a few necessary details like, acquiring the land, zoning permits, the dirt moving equipment used to remove the dirt that lies above the sand (scrapers, dozers, excavators, haul trucks), the loaders to load trucks, truck scales, coarse material washers that grind up the mud & clay in the slurry and a host of support equipment.

To equip one of these operations to the point that you can start producing sand costs a fortune. This is a long term commitment and a long term operation.

When I commit to one of these projects I need to know that I will be allowed to produce all the sand on the site. Regardless of how long that takes.

At each location we have several water permits:

1. A Hydraulic dredging term permit that allows the dredge to pump sand slurry to the processing plant and return the water to the lake.
2. A wash water well or floating pump term permit, which uses water from a well near the lake or a floating pump in the lake (both considered ground water) to help clean the sand in the processing plant.
3. A Water Right to cover the net evaporation off the surface of the lake (the amount determined by DWR in every township in Ks).

There are several problems with these water permits.

1. Term permits, by definition are short term. Subject to extensions-maybe.
2. The deadlines to construct the diversion works.

A). With an irrigation right construction of the diversion works means, drilling the well and installing the pump.

With the sand industry it means, obtaining county zoning, then digging into the ground until you intersect ground water, assembling the plant and starting to produce and stockpile sand.

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If I am operating in a community and I have 20 years of sand reserves on my current site, I find another site where I could continue to serve the community, I buy the land, apply for the water rights to cover evaporation and I am lucky enough to receive the water rights, I initially have 5 years to construct the diversion works, it is possible to get a 5 year extension and theoretically perhaps a another 5 years, but highly unlikely to ever be allowed more than 15 years total.

I operate in one county where it is realistic to expect you will need 15 years to get a county Conditional Use permit.

If I received the county permit at year nine and could not get the extension from year 10 to yr.15, then I would need to open a second sand production site in order to save my water right. This would mean operating two sand production sites in a single market area, thereby doubling my operating costs. This would preserve the water right, but result in bankruptcy. This is not workable.

3. The third problem is the perfection period.

A). With an irrigation water right if you apply for 200 acre feet water right, in one of the first 5 years, after constructing the diversion works, you pump 200 acre feet of water and your right is perfected.

However, with a water right to cover evaporation the only way you can perfect the right (in a 18" net evaporation township) is to pump out all the sand on 114 acres of land. This is not workable; we need a system that will permit the site for the life of the reserve, however long it lasts.

4. We are forced to sign Minimum Desirable Stream Flow documents saying that if the river drops below a certain level DWR can put us out of business. DWR, as yet, has not required us to shut down under MDS, but as with any governmental agency, a change in administration may be all is required for that to happen.
5. The requirement to place water meters on non-consumptive uses such as wash water wells & floating wash water pumps.

In 2009, I requested a waiver regarding water meter requirement permits and water rights, all of which provide wash water for wash plants connected to hydraulic dredging operations. This is a non-consumptive use.

To prove this point I tested the moisture content of wet processed sand stockpiles (where both a hydraulic dredge and a wash water well/floating pump were used). In addition, I tested a dry processed sand stockpile (no water used). The dry processed sand tested 2.8 % moisture and the wet processed sand tested 2.4 % moisture.

Samples from these stockpiles were analyzed the same day they were taken, within minutes of each other. No recent precipitation occurred at either

With the above test results, it is clear that all the water from the hydraulic dredge and the wash water drained from the stockpiles and returned to the aquifer, via the lake.

The moisture in the sand piles is atmospheric, either humidity or rainfall, in either case it did not come from ground water.

Considering this evidence, no logical person can refute the fact that these uses are non-consumptive.

In these uses, the water is diverted from the aquifer, via floating pump or a well and returned directly to the aquifer via the lake and has no effect on safe yield.

Meter readings on most industrial uses, are used to calculate the water protection fees, due.

Our water protection fees are calculated from the evaporation off the surface of the lake.

The data compiled by recording these non-consumptive diversions is not used for any purpose by DWR.

I am not suggesting that we quit submitting this data. We can calculate usage by recording the hours, which the pump ran, times the capacity of the pump and arrive at data as we have in the past.

These uses have no cone of depression, do not affect safe yield and are non-consumptive.

It is not reasonable to ask us to waste \$25,000.00 for meters and installation, to gather data that has no purpose.

County road & Bridge Departments are our primary customers. If we must increase our costs by buying water meters, we shall have to pass that expense directly to those governmental agencies.

In these economically trying times when county highway departments are struggling to maintain their infrastructure; it seems ridiculous to increase their costs for no reason.

We have to pass on not only the expense of the meters and installation, but the cost of the lost production. Approximately 12,000 tons of product that will not be produced while we shut down to install water meters, yet overhead costs continue. That is a loss of \$75,000 worth of product plus \$25,000 in meters and installation which equals \$100,000 cost past on the county highway departments, all to gather information that no one uses.

We have installed a meter on the one water right that we use to control dust on haul roads. That is a consumptive use and I did not hesitate to install a meter on a use where the data is used for something.

In the late 1990's we were having problems with DWR sitting on all the sand & gravel applications. Not denying them, not approving them just not responding. One of my applications was in limbo for over 3 years.

We came to the Legislature, as you are the only real appeals process and asked for help. We were asked to get with DWR and try to find a workable solution.

This resulted in the Aggregate and Groundwater Resources Task force being formed. The Aggregate and Groundwater Resources Task Force met monthly eight hours per day for nearly two years. The Task Force consisted of representatives from Ground Water Management District #2, Kansas Water Office, Kansas Department of Health and Environment, The Kansas Society of Engineers, The State Conservation Commission, Kansas Geological Society, and members of the sand and gravel industry. At least two representatives of DWR were at every meeting.

The Task Force crafted a piece of draft legislation that was workable and agreed upon by all.

DWR went to go through the rules & Regs. process to implement the Task Force Draft Legislation, they implemented part of the Task Force concept, but left out key details that would have made the Rules & Regulations workable.

If DWR had implemented the Task Force Draft Bill completely, as was agreed upon, we would not be here today.

DWR left out was the Project Permit Concept, where the site was permitted for the life of the reserve.

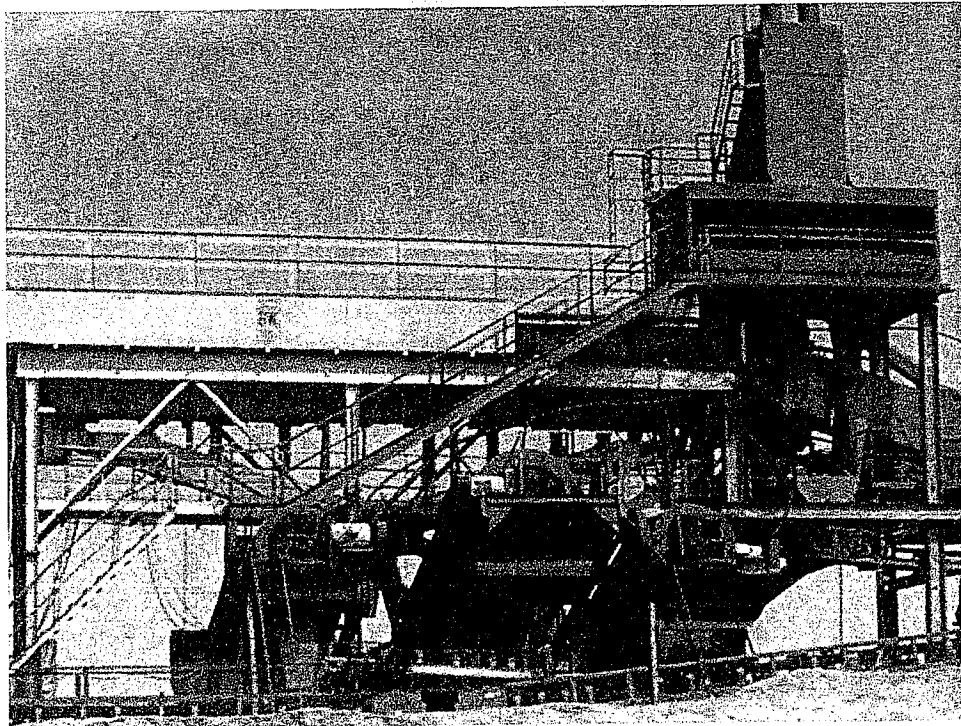
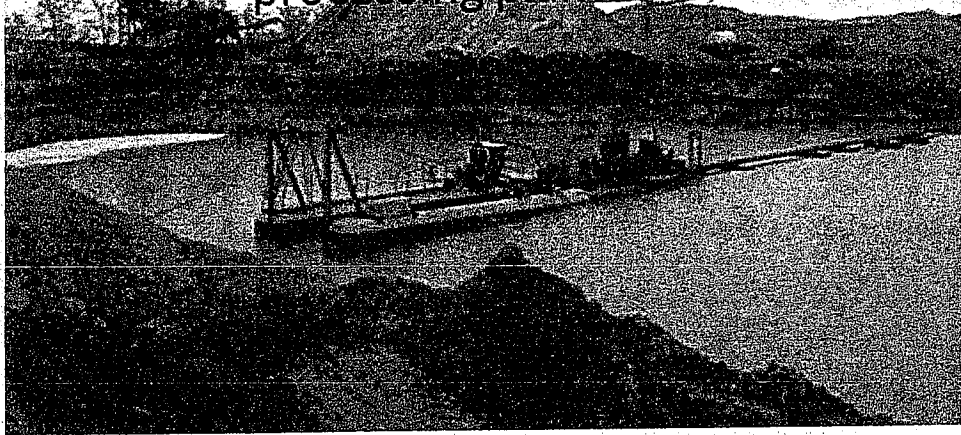
The evaporative water right, hydraulic dredging permit, wash water well and/or wash water floating pump were all supposed to be on one form and processed together. These were all to last for the life of the proven reserve, however long that reserve lasted. No Limit.

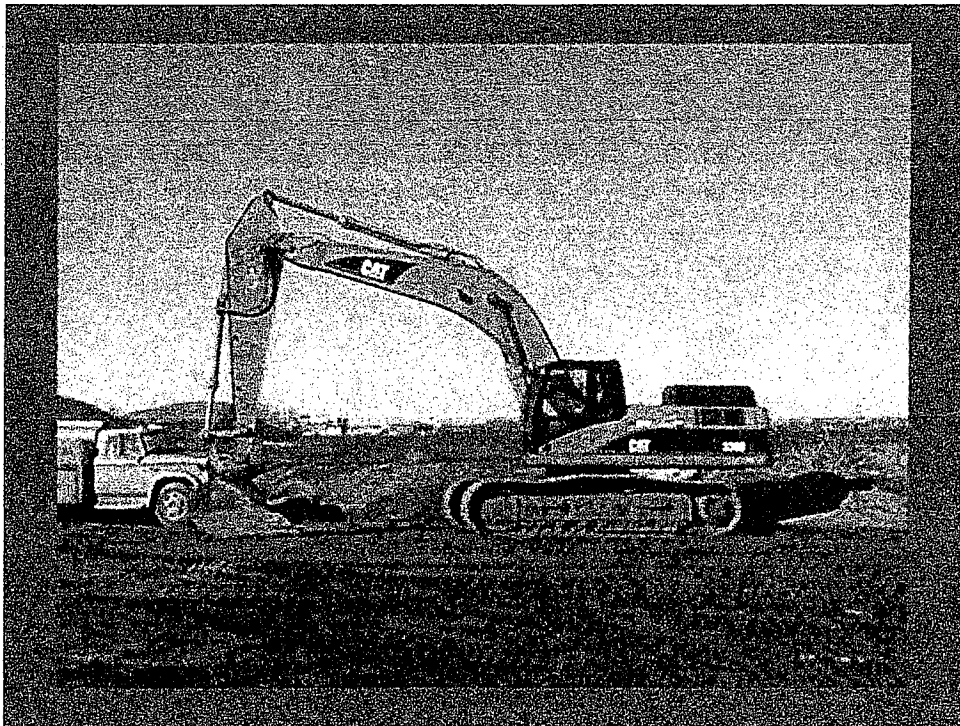
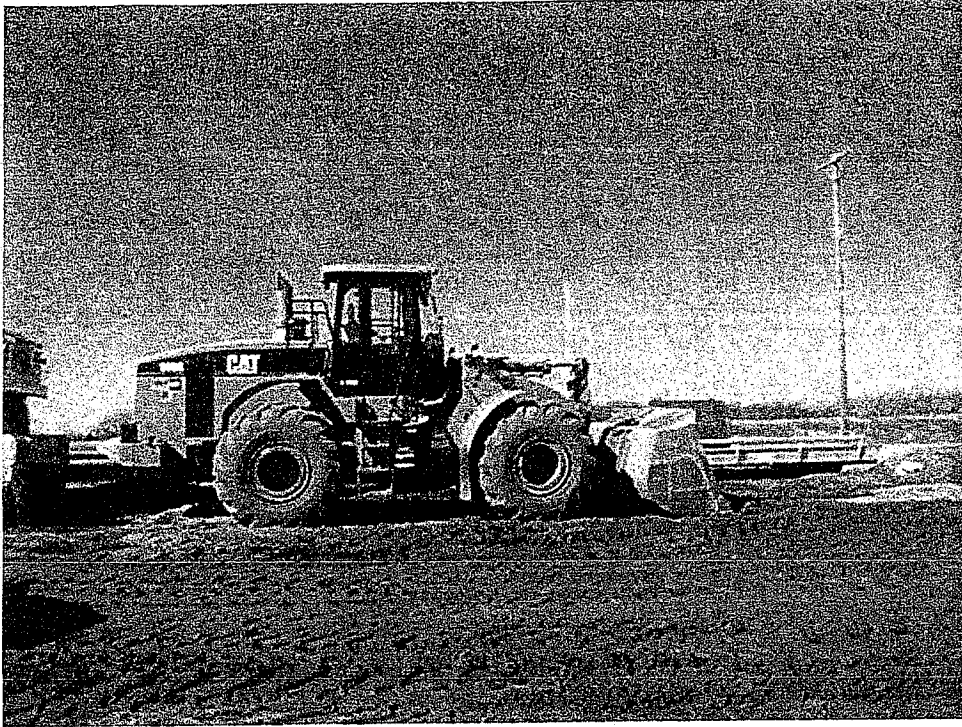
We need to resolve problems with; the deadline to construct the diversion works and time to perfect evaporative rights.

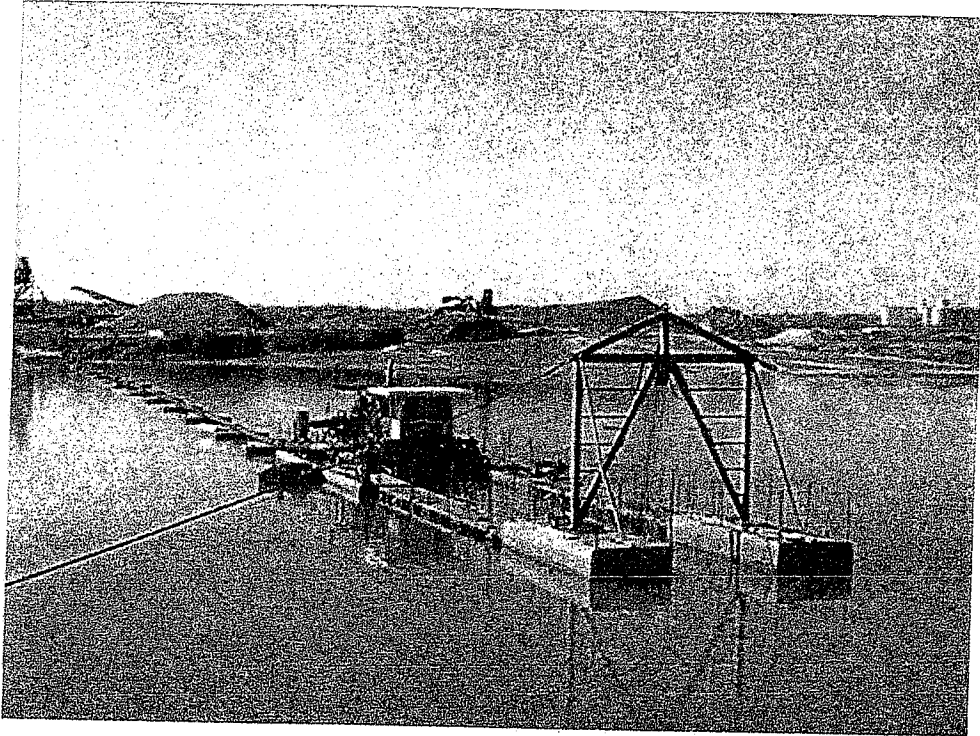
Recognize wash water wells & wash water floating pumps use in conjunction with a hydraulic dredging operation as non- consumptive uses and hydraulic dredging as non- consumptive. These are uses of water that do not evaporate or consume any water. Because they are non-consumptive, they need to be exempt from; safe yield, Minimum desirable Stream Flow Standards, water meter requirements and well spacing requirements.

Thank you for your consideration and your help in resolving these problems.

The dredge tears loose sand, mud, clay and rocks underwater. It screens out the larger chunks and sends the remainder up the pipeline to the processing plant.



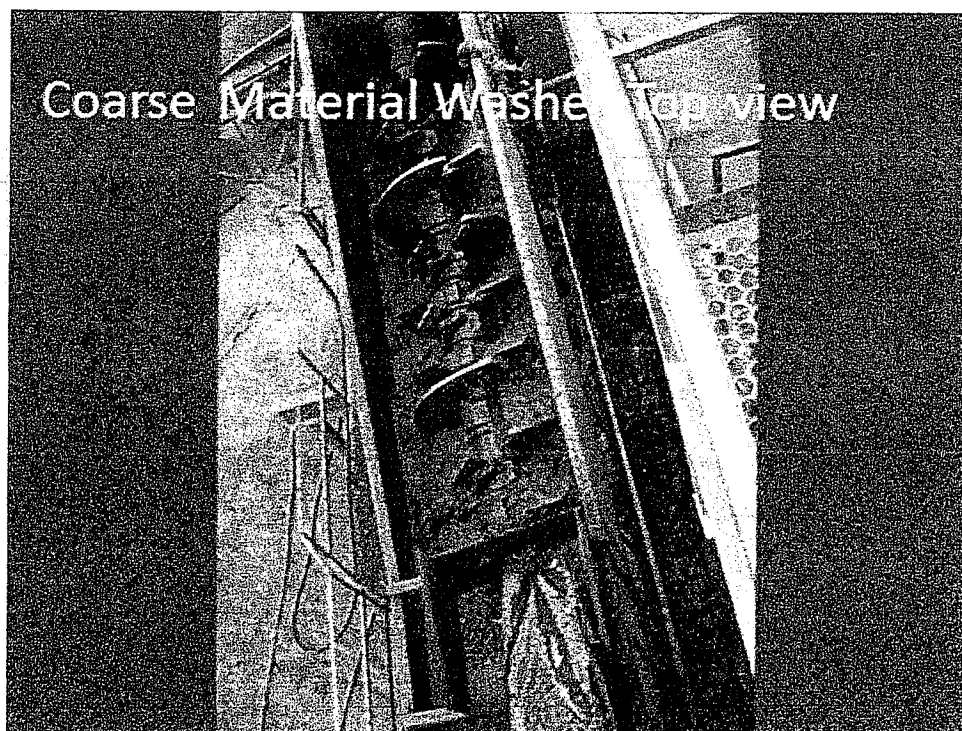
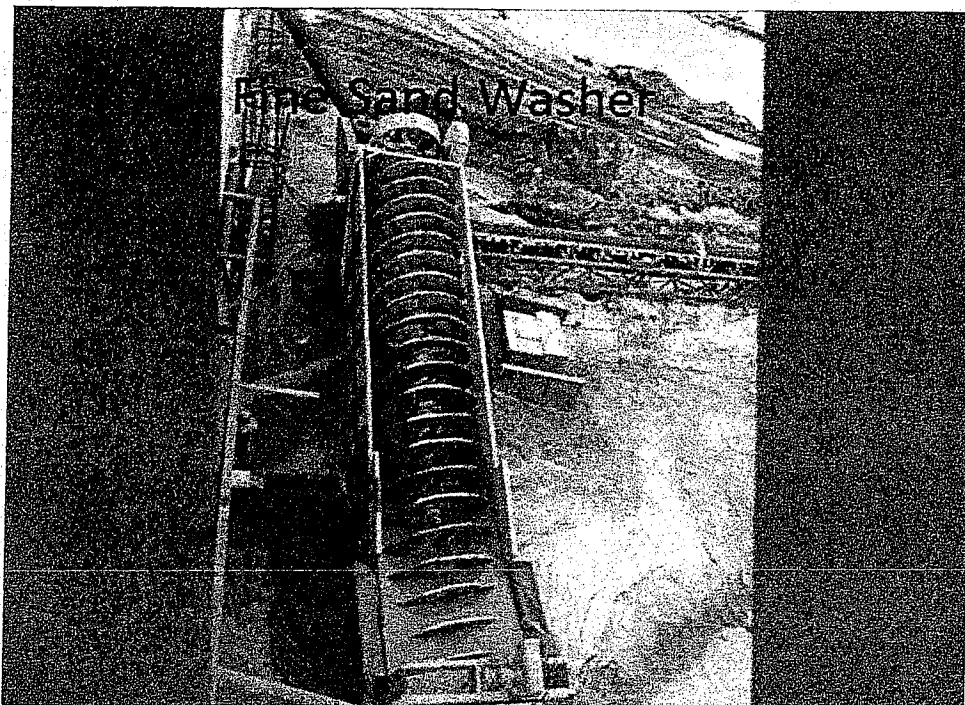


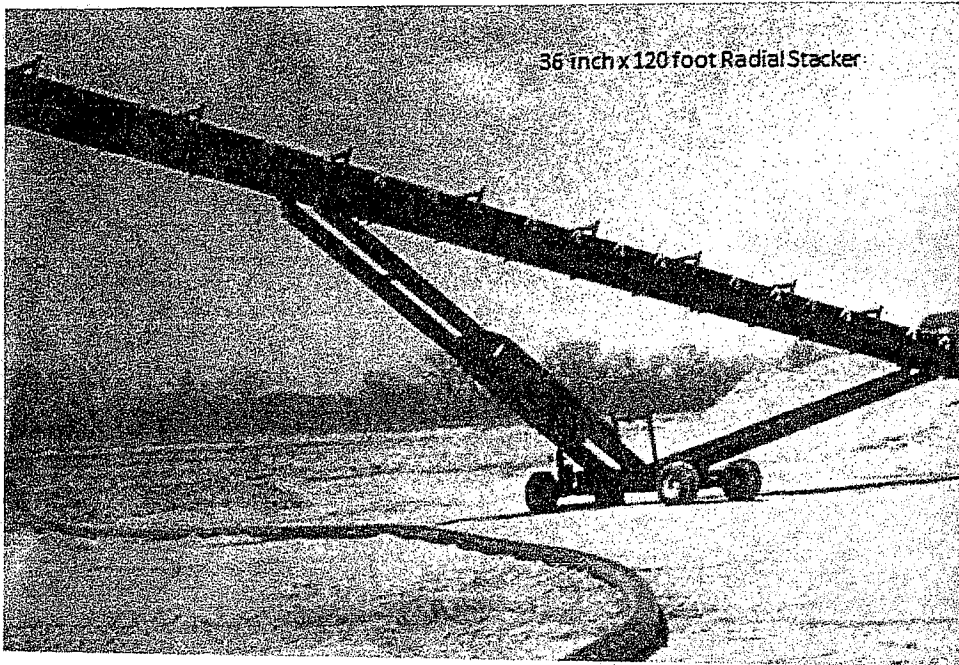


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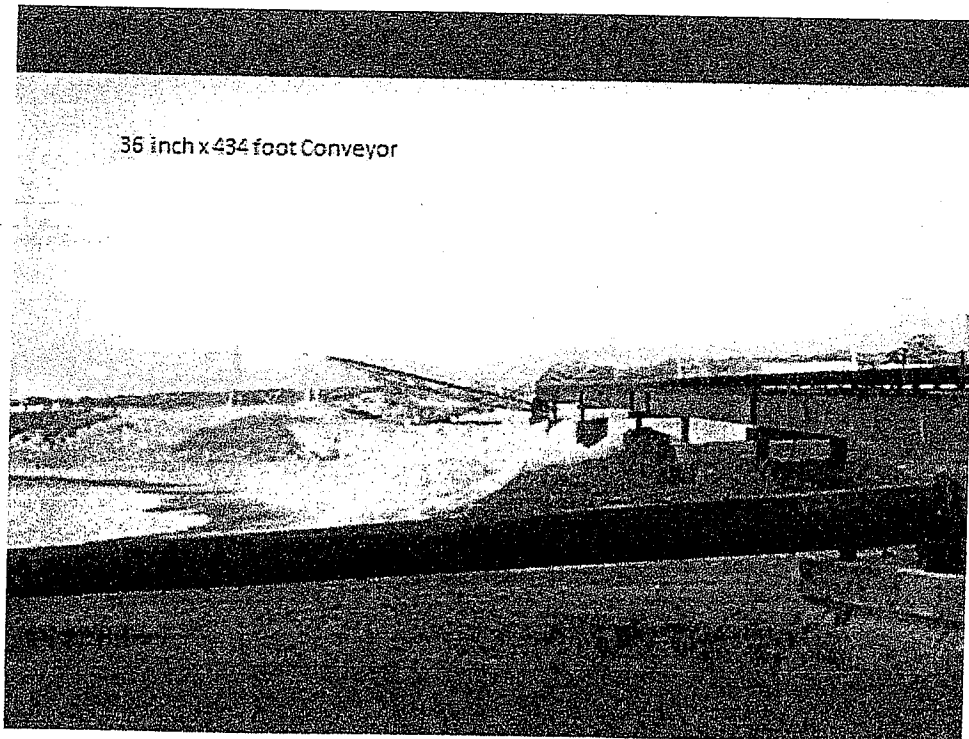


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36 inch x 120 foot Radial Stacker



36 inch x 434 foot Conveyor

