

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF

GARFIELD COUNTY, COLORADO

PETITION FOR EXEMPTION

Pursuant to C.R.S. (1973) Section 30-28-101 (10) (a) - (d) as amended, and the Subdivision Regulations of Garfield County, Colorado, adopted April 23, 1984 Section 2:20.49, the undersigned Rue Balcomb and Bruce Arbaney respectfully petitions the Board of County Commissioners of Garfield County, Colorado, to exempt by Resolution the division of 40 acre tract of land into 4 tracts of approximately \_\_\_\_\_ acres each, more or less, from the definitions of "subdivision" and "subdivided land" as the terms are used and defined in C.R.S. (1973) Section 30-28-101 (10) (a) - (d) and the Garfield County Subdivision Regulations for the reasons stated below:

Better land use pattern can be provided. More efficient land use is promoted.

**SUBMITTAL REQUIREMENTS:**

An application which satisfies the review criteria must be submitted with all the following information: See exhibit which corresponds to lettered paragraph.

- A. Sketch map at a minimum scale of 1"=200' showing the legal description of the property, dimension and area of all lots or separate interests to be created, access to a public right-of-way, and any proposed easements for drainage, irrigation, access or utilities;
- B. Vicinity map at a minimum scale of 1"=2000' showing the general topographic and geographic relation of the proposed exemption to the surrounding area within two (2) miles, for which a copy of U.S.G.S. quadrangle map may be used.
- C. Copy of the deed showing ownership by the applicant, or a letter from the property owner(s) if other than the applicant; and
- D. Names and addresses of owners of record of land immediately adjoining and within 200 feet of the proposed exemption, mineral owners and lessees of mineral owners of record of the property to be exempted, and tenants of any structure proposed for conversion; and
- E. Evidence of the soil types and characteristics of each type; and
- F. Proof of legal and adequate source of domestic water for each lot created, method of sewage disposal, and letter of approval of fire protection plan from appropriate fire district; and
- G. If connection to a community of municipal water or sewer system is proposed, a letter from the governing body stating a willingness to serve; and N/A
- H. Narrative explaining why exemption is being requested; and
- I. It shall be demonstrated that the parcel existed as described on January 1, 1973 or the parcel as it exists presently is one of not more than three parcels created from a larger parcel as it existed on January 1, 1973.
- J. A \$300.00 fee must be submitted with the application

*Rue Balcomb*  
*Bruce Arbaney*  
Petitioner - Rue Balcomb and  
Bruce Arbaney  
c/o Scott Balcomb, P.O. Box 980  
Mailing Address  
Glenwood Springs, CO 81602  
City State  
970-945-6546  
Telephone Number

## EXEMPTION

### APPLICABILITY

The Board of County Commissioners has the discretionary power to exempt a division of land from the definition of subdivision and thereby from the procedure in these Regulations, provided the Board determines that such exemption will not impair or defeat the stated purpose of the Subdivision Regulations nor be detrimental to the general public welfare. The Board shall make exemption decisions in accordance with the requirements of these regulations. Following a review of the individual facts of each application in light of the requirements of these Regulations, the Board may approve, conditionally approve or deny an exemption. An application for exemption must satisfy, at a minimum, all of the review criteria listed below. Compliance with the review criteria, however, does not ensure exemption. The Board also may consider additional factors listed in Section 8:60 of the Subdivision Regulations.

- A. No more than a total of four (4) lots, parcels, interests or dwelling units will be created from any parcel, as that parcel was described in the records of the Garfield County Clerk and Recorder's Office on January 1, 1973, and is not a part of a recorded subdivision; however, any parcel to be divided by exemption that is split by a public right-of-way (State or Federal highway, County road or railroad) or natural feature, preventing joint use of the proposed tracts, and the division occurs along the public right-of-way or natural feature, such parcels thereby created may, at the discretion of the Board, not be considered to have been created by exemption with regard to the four (4) lot, parcel, interest or dwelling unit limitation otherwise applicable;
- B. All Garfield County zoning requirements will be met; and
- C. All lots created will have legal access to a public right-of-way and any necessary access easements have been obtained or are in the process of being obtained; and
- D. Provision has been made for an adequate source of water in terms of both the legal and physical quality, quantity and dependability, and a suitable type of sewage disposal to serve each proposed lot; and
- E. All state and local environmental health and safety requirements have been met or are in the process of being met; and
- F. Provision has been made for any required road or storm drainage improvements; and
- G. Fire protection has been approved by the appropriate fire district; and
- H. Any necessary drainage, irrigation or utility easements have been obtained or are in the process of being obtained; and
- I. School fees, taxes and special assessments have been paid.  
(The School Impact Fee is \$200.00 for each new lot created).

### PROCEDURES

- A. A request for exemption shall be submitted to the Board on forms provided by the Garfield County Department of Development/Planning Division. Two (2) copies of the application maps and supplemental information shall be submitted.

- B. The Planning Division shall review the exemption request for completeness within eight (8) days of submittal. If incomplete, the application shall be withdrawn from consideration and the applicant notified of the additional information needed. If the application is complete, the applicant shall be notified in writing of the time and place of the Board of County Commissioners meeting at which the request shall be considered. In either case, notification shall occur within fifteen (15) days of submittal.
- C. Notice of the public meeting shall be mailed by certified mail, return receipt requested, to owners of record of land immediately adjoining and within 200 feet of the proposed exemption, to mineral owners and lessees of mineral owners of record of the land proposed for exemption, and to tenants of any structure proposed for conversion. the exemption site shall be posted clearly and conspicuously visible from a public right-of-way with notice signs provided by the Planning Division. All notices shall be mailed at least fifteen (15) and not more than thirty (30) days prior to the meeting. The applicant shall be responsible for mailing the notices and shall present proof of mailing at the meeting.
- D. At or within fifteen (15) days of the meeting, the Board shall approve, conditionally approve or deny the exemption request. The reasons for denial or any conditions of approval shall be set forth in the minutes of the meeting or in a written resolution. An applicant denied exemption shall follow the subdivision procedure in these regulations.

WARRANTY DEED

THIS DEED, Made this 17TH day of MAY, 1994, between VIRGINIA BROWN DUNFEE

of the said County of GARFIELD and State of COLORADO, grantor, and BRUCE ARBANEY AND RUE BALCOMB

whose legal address is P.O. BOX 790 GLENWOOD SPRINGS, CO 81602 of the said County of GARFIELD and State of COLORADO, grantee:

MAY 17 1994  
GARFIELD  
State Doc. Fee  
\$ 16.00  
DOC FEE \$10.00

WITNESSETH, That the grantor for and in consideration of the sum of good and valuable consideration and ten DOLLARS, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee, his heirs and assigns forever, all the real property together with improvements, if any, situate, lying and being in the said County of GARFIELD and State of Colorado described as follows: THAT PORTION OF THE W1/2SW1/4 OF SECTION 25, TOWNSHIP 5 SOUTH, RANGE 90 WEST OF THE 6TH P.M. LYING AND BEING WEST OF THE COUNTY ROAD ON CANON CREEK

COUNTY OF GARFIELD  
STATE OF COLORADO

TOGETHER WITH, BUT WITHOUT WARRANTY, THE WATER WELL LOCATED ON THE NORTH 1/2 OF THE PROPERTY DESCRIBED ABOVE AND 0.1 C.F.S. IN THE VIRGINIA DITCH, PRIORITY NO. 177.

as known by street and number as: 0267 COUNTY ROAD 137 GLENWOOD SPRINGS, CO 81601

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 the grantor, 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 the grantee, his heirs and assigns forever. And the grantor, for himself, his heirs, and personal representatives, does covenant, grant, bargain, and agree to and with the grantee, his heirs and assigns, that at the time of the enrolling and delivery of these presents, he is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except real property taxes for the year 1994, not yet due or payable and those items set forth on Exhibit "A" attached hereto.

The grantor shall and will WARRANTY AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee, his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof. The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

*Virginia Brown Dunfee*  
VIRGINIA BROWN DUNFEE

State of COLORADO )  
) ss.  
County of GARFIELD )

The foregoing instrument was acknowledged before me this 17TH day of MAY, 1994, by Virginia Brown Dunfee

My commission expires 051795

Witness my hand and official seal.



*Cindy Hughes*  
Notary Public

Return to: Bruce Arbane and Rue Balcomb  
P.O. Box 790  
Glenwood Springs, CO 81602

94022805



Ex C

## EXHIBIT "A"

All existing roads, highways, ditches, utilities, canals, pipelines, powerlines, telephone lines, water lines and rights of way and easements therefore established and or existing as same may cross subject property.

Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as reserved in United States Patent recorded July 6, 1892 in Book 12 at Page 175 as Reception No. 14249. (Sec. 25)

Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as reserved in United States Patent recorded October 17, 1890 in Book 12 at Page 62 as Reception No. 10843. (Sec. 36)

Maps and Statements of the following ditches:

NAME	FILED	RECEPTION NO.
The Virginia Ditch	July 17, 1899	21889
Chenoweth & Mings Ditch	August 11, 1886	2928
Chenoweth & Mings Ditch	September 11, 1885	3079
Chenoweth & Mings Ditch	November 18, 1886	3332
Wolverton Ditch	July 30, 1889	9324

Right of way for the enlargement of the Prendergast/Spion Kop Ditch recorded February 10, 1921 in Book 124 at Page 409 as Reception No. 74258.

Right of way for Prendergast Ditch recorded February 26, 1921 in Book 124 at Page 424 as Reception No. 74440.

Right of way for the Wolverton Mesa Ditch as recorded June 30, 1906 in Book 64 at Page 484 as Reception No. 32120.

Easement and right of way for the use, operation and maintenance of the Williams Canal as granted by Brinkley B. Brown to the Williams Canal Company, recorded May 19, 1975 in Book 474 at Page 44 as Reception No. 267628.

Utility Easement granted to Public Service Company of Colorado 10 feet in width, described in document recorded July 9, 1991 in Book 808 at Page 164 as Reception No. 425192.

OFFICE OF THE STATE ENGINEER  
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

WELL PERMIT NUMBER 183449  
DIV. 5 CNTY. 23 WD 39 DES. BASIN MD

APPLICANT

RUE BALCOMB & BRUCE ARBANEY  
P O DRAWER 790  
GLENWD SPRINGS CO 81602

(303)928-8166

Lot: Block: Filing: Subdiv:

APPROVED WELL LOCATION  
GARFIELD COUNTY

SW 1/4 SW 1/4 Section 25  
Twp 5 S RANGE 90 W 6th P.M.

DISTANCES FROM SECTION LINES

850 Ft. from South Section Line  
750 Ft. from West Section Line

REGISTRATION OF EXISTING 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 the permit does not assure the applicant 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 and Pump Installation 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 17.
- 3) This well is recorded, and permit approved, in accordance with CRS 37-92-602(5) for historic use as indicated herein and described in CRS 37-92-602(1)(b), being a well producing 5 GPM and used for ordinary household purposes inside one (1) single family dwelling, fire protection, the watering of domestic animals and poultry, and the irrigation of not more than one (1) acre of home gardens and lawns.
- 4) The average annual amount of ground water to be appropriated shall not exceed 2 acre-feet.

JD 11-17-94

OWNER'S COPY

APPROVED  
JD2

Hal D. Simpson  
State Engineer

By [Signature]

Receipt No. 0376689

DATE ISSUED NOV 18 1994

EXPIRATION DATE

N/A

FORM  
NO.  
GWS-7  
06/94

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
821 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

INFORMATION FOR WELL PERMITS APPROVED PURSUANT TO CRS 37-92-602  
(HOUSEHOLD, DOMESTIC, LIVESTOCK AND EXEMPT COMMERCIAL USES)

PLEASE NOTE CAREFULLY THE CONDITIONS OF APPROVAL ON THE ATTACHED COPY OF YOUR PERMIT.  
THE CONDITIONS MUST BE COMPLIED WITH IN ORDER FOR THE PERMIT TO BE VALID.

THE ISSUANCE OF THIS PERMIT DOES NOT CONFER A DECREED WATER RIGHT.

A STATEMENT OF BENEFICIAL USE FOR THIS TYPE OF WELL IS NOT REQUIRED AND IF SUBMITTED WILL BE USED FOR INFORMATIONAL PURPOSES ONLY.

THE PERMIT EXPIRATION DATE IS TWO YEARS FROM THE DATE ISSUED. The well must be constructed and evidence of its construction must be submitted to this office in the form of a Well Construction and Test Report from the well construction contractor confirming that well construction was completed prior to expiration of the well permit. The permit number is located in the upper right hand corner of the permit. The expiration date is located in the lower right hand corner. The expiration date may be extended at the discretion of the State Engineer for good cause shown. If you desire an extension, you must file a written request with this office prior to the expiration date shown on the permit. The request must state why the well has not been constructed, must include an estimate of time required to complete the well, and must specify the length of extension you desire, not to exceed one (1) year.

ADDITIONAL INFORMATION REGARDING WELL CONSTRUCTION AND WELL ABANDONMENT REGULATIONS ARE FOUND ON THE REVERSE SIDE OF THIS SHEET.

THE WELL MUST BE CONSTRUCTED AND THE PUMP INSTALLED BY CONTRACTORS WITH CURRENT LICENSE(S) ISSUED BY THE STATE OF COLORADO unless exempted as described on the reverse side. The well construction and pump installation reports must be submitted to the office of the State Engineer within sixty (60) days of completion of the work or within seven days after expiration of the permit, whichever is earlier. Your contractor must provide you with a copy of the work report(s) filed with the State Engineer. The Well Construction and Test Report, Form Number GWS-31 and the Pump Installation and Test Report, Form Number GWS-32 are available from the Division of Water Resources offices.

At least two copies of the well permit have been provided. The owner's copy is for your records. The second copy is for the pump installation contractor. Make additional copies for the well construction contractor if you select one different from the one indicated in your application. If you did not indicate a proposed driller on the application, four copies of the permit are enclosed. **DO NOT GIVE YOUR "OWNER'S COPY" TO THE CONTRACTOR .**

The original permit is on file in the Denver Office Records Section. Additional copies may be obtained for a fee of 50 cents per page. Any change of mailing address or ownership should be reported to the State Engineer by the new owner on a "Change in Ownership/Address", form number GWS-11.

If you have questions, contact the Denver Office, or the Division Office where your well is located.

**DIVISION 1**  
800 8th Ave Rm 321  
Greeley CO 80631  
(303) 352-8712

**DIVISION 2** Box 5728  
219 W 5th Rm 223  
Pueblo CO 81003  
(719) 542-3368

**DIVISION 3** Box 269  
422 4th St  
Alamosa CO 81101  
(719) 589-6683

**DIVISION 4** Box 456  
1540 E Niagara  
Montrose CO 81402  
(303) 249-6622

**DIVISION 5** Box 396  
50633 US Hwy 6 & 24  
Girwd Spgs CO 81601  
(303) 945-5665

**DIVISION 6** Box 773450  
625 So. Lincoln Ave  
Strmbt Spgs CO 80477  
(303) 879-0272

**DIVISION 7** Box 1880  
1474 Main St  
Durango CO 81302  
(303) 247-1845

**DENVER OFFICE**  
Rm 821  
1313 Sherman St  
Denver CO 80203  
(303) 866-3581

FOR INSTRUCTIONS SEE REVERSE SIDE

# REGISTRATION OF EXISTING WELL

1. WELL OWNER

NAME(S) Rue Balcomb and Bruce Arbaney  
Mailing Address P.O. Drawer 790  
City, St. Zip Glenwood Springs, CO 81602  
Phone ( 303 ) 928-8166

Receipt No.

2. WELL LOCATION: COUNTY Garfield OWNER'S WELL DESIGNATION Rue's Well

(Address) (City) (State) (Zip)  
SW 1/4 of the SW 1/4, Sec. 25 Twp. 5  N. or  S., Range 90  E. or  W. 6th P.M.  
Distances from Section Lines 850 Ft. from  N. or  S. Line, 750 Ft. from  E. or  W. Line.

3. The well has historically been used for the following purpose(s): Domestic use; 1 single family dwelling, irrigation of 1 acre of lawns, orchard, garden

4. Water from the well was first used beneficially by the original owner for the above described purpose(s) on June 1 19 51.

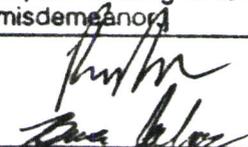
5. The total depth of this well is 68 feet.

6. The pumping rate is 5 gallons per minute.

7. The average annual amount of water diverted is 2 acre feet.

8. The land area of home lawn and garden irrigated from this well is: 1  Acre or  Square feet.  
described as: See attached legal description; tributary of Colorado River  
(Legal Description)  
or: as \_\_\_\_\_ Subdivision Lot(s) \_\_\_\_\_ Block \_\_\_\_\_ Filing/Unit \_\_\_\_\_

I (we) have read the statements made herein, know the contents thereof, and state 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.]

Name/Title (Please type or print) <u>Rue Balcomb</u> <u>Bruce Arbaney</u>	Signature 	Date <u>7/20/94</u>
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FOR OFFICE USE ONLY

State Engineer \_\_\_\_\_ By \_\_\_\_\_ Date \_\_\_\_\_  
Court Case No. \_\_\_\_\_ Div. \_\_\_\_\_ Co. \_\_\_\_\_ WD \_\_\_\_\_ Basin \_\_\_\_\_ MD \_\_\_\_\_ Use \_\_\_\_\_

David Temple  
269 County Road 137  
Glenwood Springs, CO 81601

Finley Homes Incorporated  
980 N. Michigan Avenue, Suite 1400  
Chicago, Illinois 60611-4501

John and Mila Jenson  
0568 County Road 137  
Glenwood Springs, CO 81601

Andrew Bowers  
1114 County Road 137  
Glenwood Springs, CO 81601

Richard Haas & Pricilla Ketz  
Box 807  
Glenwood Springs, CO 81602

Douglas and Cynthia Dobbins  
Box 2452  
Glenwood Springs, CO 81602

Joyce King  
570 County Road 137  
Glenwood Springs, CO 81601

David Turtle  
726 County Road 137  
Glenwood Springs, CO 81601

EXHIBIT D

Soil types are Dakota sandstone and decomposed Dakota sandstone

EXHIBIT E

WATER SUPPLY

Lot 2: Water supply Lot 1 is currently provided by a domestic right from the Virginia Ditch 1/Williams Canal. The decree in Case No. 94CW163 is attached.

Lot 3: Water supply is provided by Well Permit No. 183449, copy attached.

Lot 1 and Lot 4: Water supply is provided by an existing well, the late registration for which is attached.

The Applicants contemplate either a West Divide Water Conservancy District service contract on the surrender of well permit and late registration well in exchange for three in-house use permits only.

DISTRICT COURT, WATER DIVISION 5, COLORADO

Case No. 94CW163

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**AMENDED RULING OF REFEREE**

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CONCERNING THE APPLICATION FOR WATER RIGHTS OF RUE BALCOMB AND  
BRUCE ARBANEY IN GARFIELD COUNTY

---

Rue Balcomb and Bruce Arbaney filed the above-entitled Application on July 28, 1994. The Water Judge referred the Application to the undersigned as Water Referee for Water Division No. 5, State of Colorado, in accordance with Article 92 of Chapter 37, Colorado Revised Statutes 1973, known as the Water Rights Determination and Administration Act of 1969.

The undersigned Referee has made such investigations as are necessary to determine whether or not the statements in the Application are true, has become fully advised with respect to the subject matter of the Application, and has consulted with the Division Engineer for Water Division No. 5. The Referee hereby makes the following determinations and ruling as the Referee in this matter.

FINDINGS

1. The statements in the application are true.
2. Rue Balcomb and Bruce Arbaney are the Applicants herein.
3. The Virginia Ditch as transferred to the Williams Canal is the subject water right of the Application herein.
4. The subject water right is not located within a designated ground water basin.
5. Williams Canal Company and Greg and Jill McKennis filed timely Statements of Opposition in this case. No other Statement of Opposition has been filed, and the time for filing Statements of Opposition has expired.
6. Claim For Change of Water Right. The Applicants claim to change 0.1 c.f.s. of the Virginia Ditch from its decreed use for irrigation to irrigation and domestic uses. The Virginia Ditch is described more particularly as follows:

From previous decree:

A. Date Entered: 11/08/1909  
Case No.: CA-1379  
Court: District Court

B. Decreed Point of Diversion: Westerly side of Canyon Creek at a point whence the Northwest Corner of Section 24, Township 5 S., R. 90 West of the 6th P.M. bears North 52°30' West 1635.5 feet.

C. Source: Canyon Creek, tributary to Colorado River.

D. Appropriation Date: 4/20/1909.

E. Use: Irrigation.

F. Proposed Change: The Applicants own 0.1 c.f.s of the Virginia Ditch. They request a change in water right for that 0.1 c.f.s. from the decreed irrigation use to irrigation and domestic purposes. As grounds therefor, the Applicants state that the 0.1 c.f.s. has historically been used for both domestic and irrigation purposes around one single-family residential structure since its appropriation.

#### RULING

The Referee has examined the information submitted by the Applicants and has become advised with respect to the subject matter of the Application. He rules:

The Applicants have fulfilled all legal requirements necessary for the Court to grant the change of water right for 0.1 c.f.s. of the Virginia Ditch, as described in the Application and herein.

The change of water rights herein approved shall not require the Williams Canal Company to extend the season of ditch operations beyond that historically operated. Moreover, the Canal Company shall be under no obligation to furnish water of a quality better than that historically furnished for agricultural irrigation.

The change in use decreed herein will not increase the burden on the Williams Canal Company nor injure Opponents. Applicants divert their interest in the subject water right from



OFFICE OF THE STATE ENGINEER  
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

WELL PERMIT NUMBER 183449

DIV. 5 CNTY. 23 WD 39 DES. BASIN MD

APPLICANT

Lot: Block: Filing: Subdiv:

APPROVED WELL LOCATION  
GARFIELD COUNTY

SW 1/4 SW 1/4 Section 25  
Twp 5 S RANGE 90 W 6th P.M.

RUE BALCOMB & BRUCE ARBANEY  
P O DRAWER 790  
GLENWD SPRINGS CO 81602

(303)928-8166

DISTANCES FROM SECTION LINES

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750 Ft. from West Section Line

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- 4) The average annual amount of ground water to be appropriated shall not exceed 2 acre-feet.

JD 11-17-94

OWNER'S COPY

APPROVED  
JD2

Hal D. Simpson  
State Engineer

By J. Deaton  
N/A

Receipt No. 0376689

DATE ISSUED NOV 18 1994

EXPIRATION DATE

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
821 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

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If you have questions, contact the Denver Office, or the Division Office where your well is located.

**DIVISION 1**  
800 8th Ave Rm 321  
Greeley CO 80631  
(303) 352-8712

**DIVISION 2** Box 5728  
219 W 5th Rm 223  
Pueblo CO 81003  
(719) 542-3368

**DIVISION 3** Box 269  
422 4th St  
Alamosa CO 81101  
(719) 589-6683

**DIVISION 4** Box 456  
1540 E Niagara  
Montrose CO 81402  
(303) 249-6622

**DIVISION 5** Box 396  
50633 US Hwy 6 & 24  
Glnwd Spgs CO 81601  
(303) 945-5665

**DIVISION 6** Box 773450  
625 So. Lincoln Ave  
Strmbt Spgs CO 80477  
(303) 879-0272

**DIVISION 7** Box 1880  
1474 Main St  
Durango CO 81302  
(303) 247-1845

**DENVER OFFICE**  
Rm 821  
1313 Sherman St  
Denver CO 80203  
(303) 866-3581

10/89

OFFICE OF THE STATE ENGINEER  
818 Centennial Bldg., 1313 Sherman, Denver, Colorado 80203  
(303) 866-3581

For Office Use only

MIT NUMBER

FOR INSTRUCTIONS SEE REVERSE SIDE

# REGISTRATION OF EXISTING WELL

### 1. WELL OWNER

NAME(S) Rue Balcomb and Bruce Arbaney  
Mailing Address P.O. Drawer 790  
City, St. Zip Glenwood Springs, CO 81602  
Phone (303) 928-8166

Receipt No.

### 2. WELL LOCATION: COUNTY Garfield OWNER'S WELL DESIGNATION Rue's Well

(Address) (City) (State) (Zip)  
SW 1/4 of the SW 1/4, Sec. 25 Twp. 5  N. or  S., Range 90  E. or  W. 6th P.M.  
Distances from Section Lines 850 Ft. from  N. or  S. Line, 750 Ft. from  E. or  W. Line.

3. The well has historically been used for the following purpose(s): Domestic use; 1 single family dwelling, irrigation of 1 acre of lawns, orchard, garden

4. Water from the well was first used beneficially by the original owner for the above described purpose(s) on June 1 19 51.

5. The total depth of this well is 68 feet.

6. The pumping rate is 5 gallons per minute.

7. The average annual amount of water diverted is 2 acre feet.

8. The land area of home lawn and garden irrigated from this well is: 1  Acre or  Square feet.  
described as: See attached legal description; tributary of Colorado River  
(Number)  
or as (Legal Description) Subdivision Lot(s)          Block          Filing/Unit         

I (we) have read the statements made herein, know the contents thereof, and state 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.]

9. Name/Title (Please type or print)  
Rue Balcomb  
Bruce Arbaney

Signature

Date

7/20/94

FOR OFFICE USE ONLY

State Engineer \_\_\_\_\_ By \_\_\_\_\_ Date \_\_\_\_\_  
Court Case No. \_\_\_\_\_ Div. \_\_\_\_\_ Co. \_\_\_\_\_ WD \_\_\_\_\_ Basin \_\_\_\_\_ MD \_\_\_\_\_ Use \_\_\_\_\_

Legal Description

That portion of the W1/2SW1/4 of Section 25, Township 5 South, Range 90 West of the 6th P.M. lying and being West of the County Road on Canon Creek together with, but without warranty, the water well located on the North 1/2 of the property described above and 0.1 cfs in the Virginia Ditch, Priority No. 177.

Not Applicable

EXHIBIT G

The exemption is requested to provide additional housing opportunities in the Canyon Creek area. The land involved lends itself to the requested division.

EXHIBIT H

The 40+ acre parcel existed on January 1, 1973. It was owned prior to that date by Brinkley B. Brown, deceased.

EXHIBIT I

\$300 is submitted with this application.

EXHIBIT J

**GARFIELD COUNTY**  
**Building and Planning**

June 1, 1995

Mr. Jeff Deatherage  
Water Resources Engineer  
Office of the State Engineer  
1313 Sherman Street, Room 818  
Denver, CO 80203

**RE: Arbaney/Balcomb Subdivision Exemption (Section 25, T5S, R90W)**

Dear Jeff:

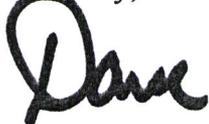
I am enclosing an application for a subdivision exemption from Rue Balcomb and Bruce Arbaney, located west of Glenwood Springs, in the Canyon Creek area. The applicant has requested an exemption to split the 40 acre tract into four (4) parcels of approximately 3, 3, 4, and 30 acres in size.

Domestic water would be provided a domestic right from the Virginia Ditch/ Williams Canal (decree No. 94CW163 attached), Well permit #183449 (attached), an existing well (late registration attached), and a West Divide service contract (applicants explanation attached). I have also attached a vicinity map and sketch plan for your use.

The application comes before the Board on June 12, 1995. Any approval by the Board shall be conditioned on approval by your office.

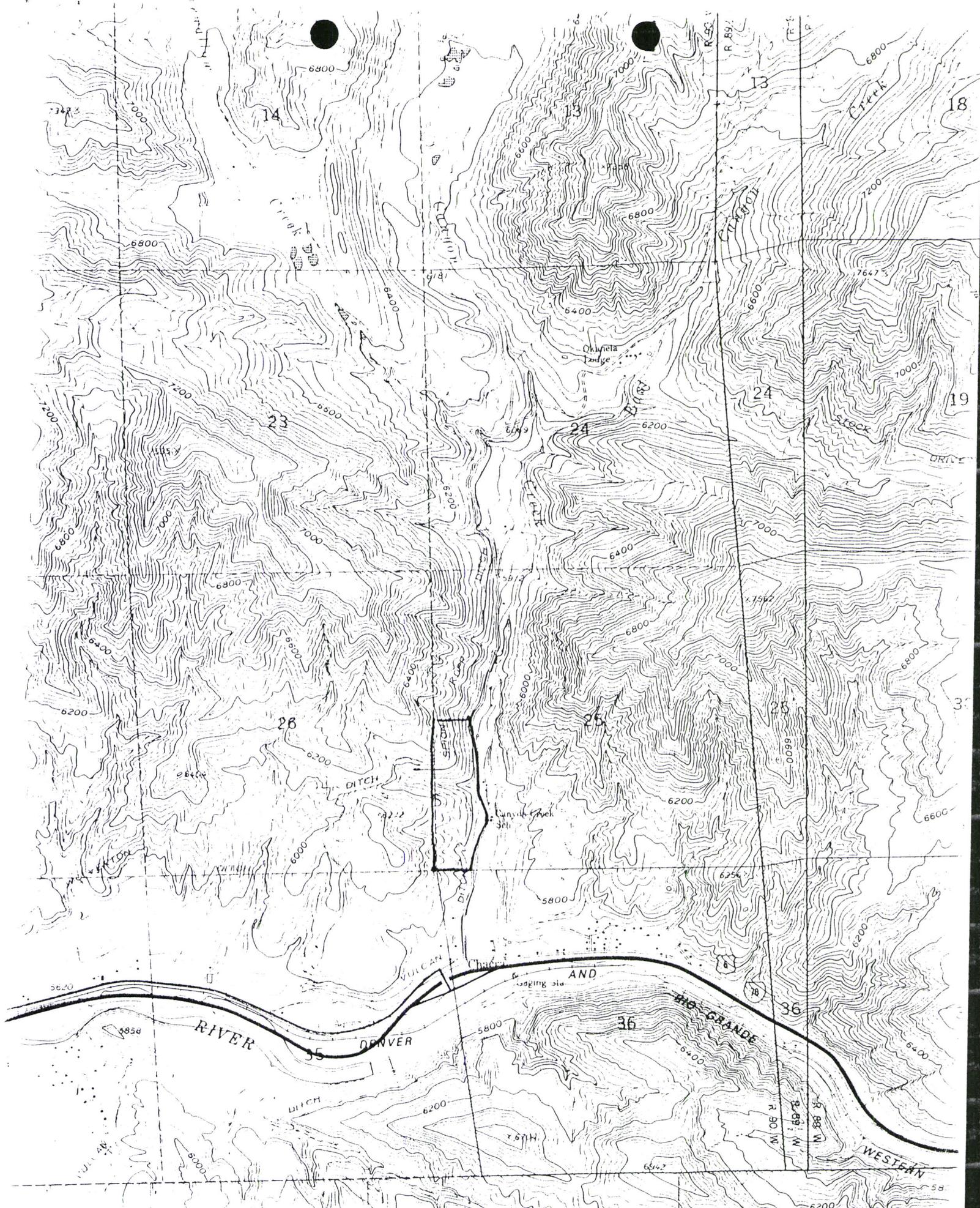
If you have any questions, feel free to give me a call.

Sincerely,



Dave Michaelson  
Planner

DHM/dhm  
Enclosures



EX B A PORTION OF THE STORM KING MM QUAD.

Proposed: 4 Lots total

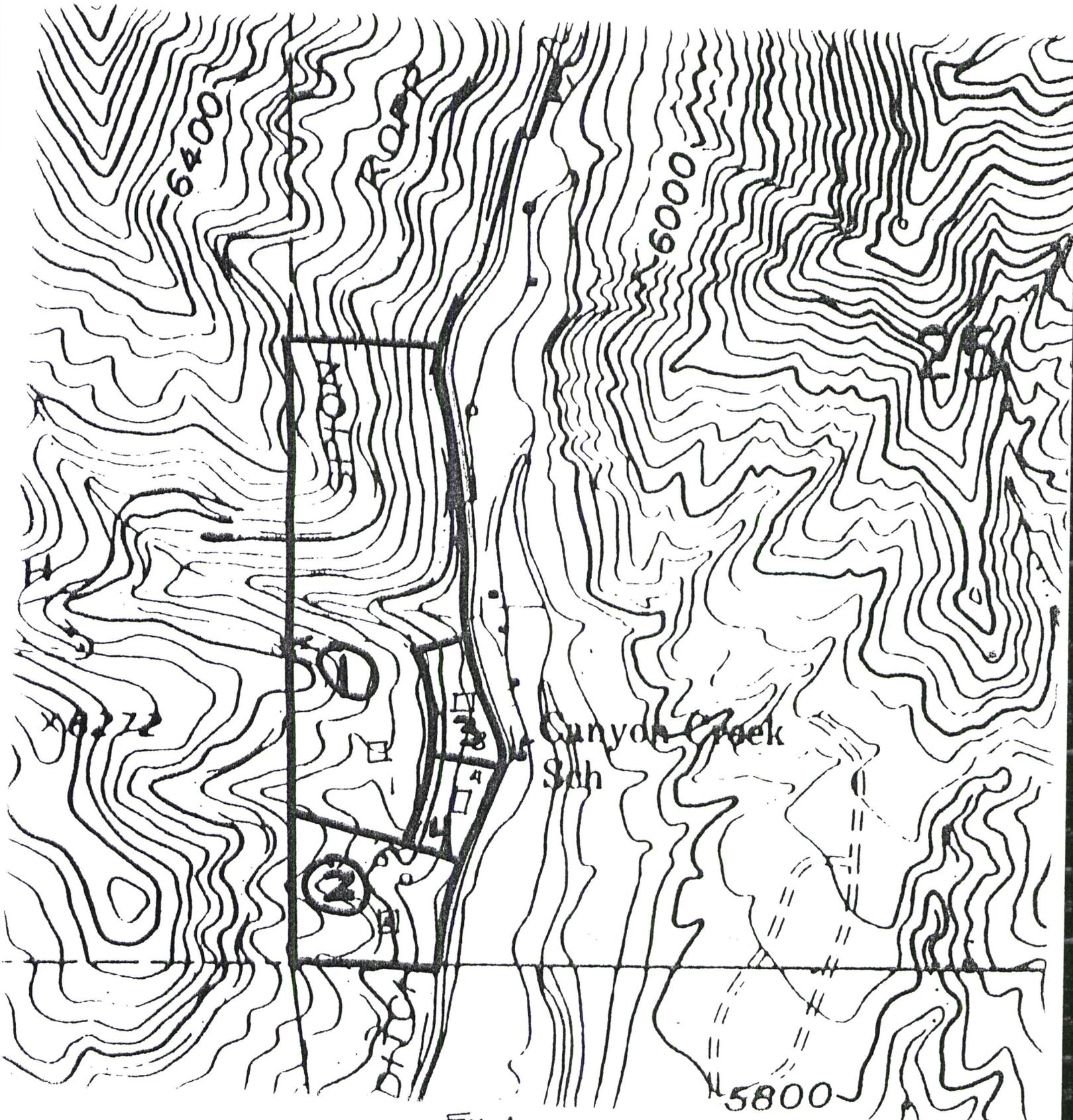
2 lots of 3± acres each

1 " " 5± " "

1 " " 30± " "

1" = 728'

□ = Bldg ENVELOPE



Ex A

WATER SUPPLY

Lot 2: Water supply Lot 1 is currently provided by a domestic right from the Virginia Ditch 1/Williams Canal. The decree in Case No. 94CW163 is attached.

Lot 3: Water supply is provided by Well Permit No. 183449, copy attached.

Lot 1 and Lot 4: Water supply is provided by an existing well, the late registration for which is attached.

The Applicants contemplate either a West Divide Water Conservancy District service contract on the surrender of well permit and late registration well in exchange for three in-house use permits only.

EXHIBIT F

DISTRICT COURT, WATER DIVISION 5, COLORADO

Case No. 94CW163

---

**AMENDED RULING OF REFEREE**

---

CONCERNING THE APPLICATION FOR WATER RIGHTS OF RUE BALCOMB AND  
BRUCE ARBANEY IN GARFIELD COUNTY

---

Rue Balcomb and Bruce Arbaney filed the above-entitled Application on July 28, 1994. The Water Judge referred the Application to the undersigned as Water Referee for Water Division No. 5, State of Colorado, in accordance with Article 92 of Chapter 37, Colorado Revised Statutes 1973, known as the Water Rights Determination and Administration Act of 1969.

The undersigned Referee has made such investigations as are necessary to determine whether or not the statements in the Application are true, has become fully advised with respect to the subject matter of the Application, and has consulted with the Division Engineer for Water Division No. 5. The Referee hereby makes the following determinations and ruling as the Referee in this matter.

FINDINGS

1. The statements in the application are true.
2. Rue Balcomb and Bruce Arbaney are the Applicants herein.
3. The Virginia Ditch as transferred to the Williams Canal is the subject water right of the Application herein.
4. The subject water right is not located within a designated ground water basin.
5. Williams Canal Company and Greg and Jill McKennis filed timely Statements of Opposition in this case. No other Statement of Opposition has been filed, and the time for filing Statements of Opposition has expired.
6. Claim For Change of Water Right. The Applicants claim to change 0.1 c.f.s. of the Virginia Ditch from its decreed use for irrigation to irrigation and domestic uses. The Virginia Ditch is described more particularly as follows:

From previous decree:

A. Date Entered: 11/08/1909  
Case No.: CA-1379  
Court: District Court

B. Decreed Point of Diversion: Westerly side of Canyon Creek at a point whence the Northwest Corner of Section 24, Township 5 S., R. 90 West of the 6th P.M. bears North 52°30' West 1635.5 feet.

C. Source: Canyon Creek, tributary to Colorado River.

D. Appropriation Date: 4/20/1909.

E. Use: Irrigation.

F. Proposed Change: The Applicants own 0.1 c.f.s of the Virginia Ditch. They request a change in water right for that 0.1 c.f.s. from the decreed irrigation use to irrigation and domestic purposes. As grounds therefor, the Applicants state that the 0.1 c.f.s. has historically been used for both domestic and irrigation purposes around one single-family residential structure since its appropriation.

#### RULING

The Referee has examined the information submitted by the Applicants and has become advised with respect to the subject matter of the Application. He rules:

The Applicants have fulfilled all legal requirements necessary for the Court to grant the change of water right for 0.1 c.f.s. of the Virginia Ditch, as described in the Application and herein.

The change of water rights herein approved shall not require the Williams Canal Company to extend the season of ditch operations beyond that historically operated. Moreover, the Canal Company shall be under no obligation to furnish water of a quality better than that historically furnished for agricultural irrigation.

The change in use decreed herein will not increase the burden on the Williams Canal Company nor injure Opponents. Applicants divert their interest in the subject water right from

the Williams Canal when available and the water is not available thereafter to Opponents.

It is accordingly ORDERED that this Ruling shall be filed with the Water Clerk subject to judicial review pursuant to Colo. Rev. Stat. § 37-92-304.

It is further ORDERED that a copy of the ruling shall be filed with the State Engineer and the Division Engineer for Water Division No. 5

Dated:

January 25, 1995

BY THE REFEREE



Robert C. Cutter, Water Referee  
Water Division No. 5  
State of Colorado

*list*  
✓  
✓  
Nancy Barley  
26 Jan 95  
Balcomb  
McKenna

No protest was filed in this matter. The foregoing Ruling of the Referee is confirmed and approved, and is made the Judgment and Decree of this Court.

Dated:

March 8, 1995

  
Judge Thomas W. Ossola

Copy of the [unclear] called to all

✓  
✓  
Nancy Barley  
3-16-95  
McKenna  
Balcomb

OFFICE OF THE STATE ENGINEER  
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Larimer St., Denver, Colorado 80203  
(303) 866-3581

WELL PERMIT NUMBER <u>183449</u> DIV. 5 CNTY. 23 WD 39 DES. BASIN MD
---

APPLICANT

Lot: Block: Filing: Subdiv:

RUE BALCOMB & BRUCE ARBANEY  
P O DRAWER 790  
GLENWD SPRINGS CO 81602

(303)928-8166

APPROVED WELL LOCATION  
GARFIELD COUNTY

SW 1/4 SW 1/4 Section 25  
Twp 5 S RANGE 90 W 6th P.M.

DISTANCES FROM SECTION LINES

850 Ft. from South Section Line  
750 Ft. from West Section Line

REGISTRATION OF EXISTING 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 the permit does not assure the applicant 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 and Pump Installation 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 17.
- 3) This well is recorded, and permit approved, in accordance with CRS 37-92-602(5) for historic use as indicated herein and described in CRS 37-92-602(1)(b), being a well producing 5 GPM and used for ordinary household purposes inside one (1) single family dwelling, fire protection, the watering of domestic animals and poultry, and the irrigation of not more than one (1) acre of home gardens and lawns.
- 4) The average annual amount of ground water to be appropriated shall not exceed 2 acre-feet.

JD 11-17-94

OWNER'S COPY

APPROVED  
JD2

Hal D. Simpson  
State Engineer

By [Signature]  
EXPIRATION DATE 11/18

Receipt No. 0376689

DATE ISSUED NOV 18 1994

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
821 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

INFORMATION FOR WELL PERMITS APPROVED PURSUANT TO CRS 37-92-602  
(HOUSEHOLD, DOMESTIC, LIVESTOCK AND EXEMPT COMMERCIAL USES)

PLEASE NOTE CAREFULLY THE CONDITIONS OF APPROVAL ON THE ATTACHED COPY OF YOUR PERMIT.  
THE CONDITIONS MUST BE COMPLIED WITH IN ORDER FOR THE PERMIT TO BE VALID.

THE ISSUANCE OF THIS PERMIT DOES NOT CONFER A DECREED WATER RIGHT.

**A STATEMENT OF BENEFICIAL USE FOR THIS TYPE OF WELL IS NOT REQUIRED AND IF SUBMITTED WILL  
BE USED FOR INFORMATIONAL PURPOSES ONLY.**

THE PERMIT EXPIRATION DATE IS TWO YEARS FROM THE DATE ISSUED. The well must be constructed and evidence of it's construction must be submitted to this office in the form of a Well Construction and Test Report from the well construction contractor confirming that well construction was completed prior to expiration of the well permit. The permit number is located in the upper right hand corner of the permit. The expiration date is located in the lower right hand corner. The expiration date may be extended at the discretion of the State Engineer for good cause shown. If you desire an extension, you must file a written request with this office prior to the expiration date shown on the permit. The request must state why the well has not been constructed, must include an estimate of time required to complete the well, and must specify the length of extension you desire, not to exceed one (1) year.

ADDITIONAL INFORMATION REGARDING WELL CONSTRUCTION AND WELL ABANDONMENT REGULATIONS  
ARE FOUND ON THE REVERSE SIDE OF THIS SHEET.

THE WELL MUST BE CONSTRUCTED AND THE PUMP INSTALLED BY CONTRACTORS WITH CURRENT LICENSE(S) ISSUED BY THE STATE OF COLORADO unless exempted as described on the reverse side. The well construction and pump installation reports must be submitted to the office of the State Engineer within sixty (60) days of completion of the work or within seven days after expiration of the permit, whichever is earlier. Your contractor must provide you with a copy of the work report(s) filed with the State Engineer. The Well Construction and Test Report, Form Number GWS-31 and the Pump Installation and Test Report, Form Number GWS-32 are available from the Division of Water Resources offices.

At least two copies of the well permit have been provided. The owner's copy is for your records. The second copy is for the pump installation contractor. Make additional copies for the well construction contractor if you select one different from the one indicated in your application. If you did not indicate a proposed driller on the application, four copies of the permit are enclosed. **DO NOT GIVE YOUR "OWNER'S COPY" TO THE CONTRACTOR .**

The original permit is on file in the Denver Office Records Section. Additional copies may be obtained for a fee of 50 cents per page. Any change of mailing address or ownership should be reported to the State Engineer by the new owner on a "Change in Ownership/Address", form number GWS-11.

If you have questions, contact the Denver Office, or the Division Office where your well is located.

**DIVISION 1**  
800 8th Ave Rm 321  
Greeley CO 80631  
(303) 352-8712

**DIVISION 2** Box 5728  
219 W 5th Rm 223  
Pueblo CO 81003  
(719) 542-3368

**DIVISION 3** Box 269  
422 4th St  
Alamosa CO 81101  
(719) 589-6683

**DIVISION 4** Box 456  
1540 E Niagara  
Montrose CO 81402  
(303) 249-6622

**DIVISION 5** Box 396  
50633 US Hwy 6 & 24  
Glenwood Spgs CO 81601  
(303) 945-5665

**DIVISION 6** Box 773450  
625 So. Lincoln Ave  
Stmbt Spgs CO 80477  
(303) 879-0272

**DIVISION 7** Box 1880  
1474 Main St  
Durango CO 81302  
(303) 247-1845

**DENVER OFFICE**  
Rm 821  
1313 Sherman St  
Denver CO 80203  
(303) 866-3581

FOR INSTRUCTIONS SEE REVERSE SIDE

# REGISTRATION OF EXISTING WELL

1. **WELL OWNER**  
 NAME(S) Rue Balcomb and Bruce Arboney  
 Mailing Address P.O. Drawer 790  
 City, St. Zip Glenwood Springs, CO 81602  
 Phone (303) 928-8166

Receipt No. \_\_\_\_\_

2. **WELL LOCATION; COUNTY** Garfield **OWNER'S WELL DESIGNATION** Rue's Well  
 (Address) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_  
 SW 1/4 of the SW 1/4, Sec. 25 Twp. 5  N. or  S., Range 90  E. or  W. 6th P.M.  
 Distances from Section Lines 850 Ft. from  N. or  S. Line, 750 Ft. from  E. or  W. Line.

3. The well has historically been used for the following purpose(s): Domestic use; 1 single family dwelling, irrigation of 1 acre of lawns, orchard, garden

4. Water from the well was first used beneficially by the original owner for the above described purpose(s) on June 1 19 51.

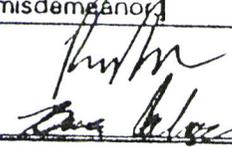
5. The total depth of this well is 68 feet.

6. The pumping rate is 5 gallons per minute.

7. The average annual amount of water diverted is 2 acre feet.

The land area of home lawn and garden irrigated from this well is: 1  Acre or  Square feet.  
 described as: See attached legal description; tributary of Colorado River  
(Number)  
 or: as \_\_\_\_\_ Subdivision Lot(s) \_\_\_\_\_ Block \_\_\_\_\_ Filing/Unit \_\_\_\_\_  
(Legal Description)

I (we) have read the statements made herein, know the contents thereof, and state 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.]

Name/Title (Please type or print) Rue Balcomb Bruce Arboney	Signature 	Date <u>7/20/94</u>
---	---	------------------------

FOR OFFICE USE ONLY

State Engineer	By	Date
Court Case No.	Div.	Co.
WD	Basin	MD
Use		

Legal Description

That portion of the W1/2SW1/4 of Section 25, Township 5 South, Range 90 West of the 6th P.M. lying and being West of the County Road on Canon Creek together with, but without warranty, the water well located on the North 1/2 of the property described above and 0.1 cfs in the Virginia Ditch, Priority No. 177.

David Temple  
269 County Road 137  
Glenwood Springs, CO 81601

Finley Homes Incorporated  
980 N. Michigan Avenue, Suite 1400  
Chicago, Illinois 60611-4501

John and Mila Jenson  
0568 County Road 137  
Glenwood Springs, CO 81601

Andrew Bowers  
1114 County Road 137  
Glenwood Springs, CO 81601

Richard Haas & Pricilla Ketz  
Box 807  
Glenwood Springs, CO 81602

Douglas and Cynthia Dobbins  
Box 2452  
Glenwood Springs, CO 81602

Joyce King  
570 County Road 137  
Glenwood Springs, CO 81601

David Turtle  
726 County Road 137  
Glenwood Springs, CO 81601

EXHIBIT D

Legal Description

That portion of the W1/2SW1/4 of Section 25, Township 5 South, Range 90 West of the 6th P.M. lying and being West of the County Road on Canon Creek together with, but without warranty, the water well located on the North 1/2 of the property described above and 0.1 cfs in the Virginia Ditch, Priority No. 177.

EXHIBIT "A"

All existing roads, highways, ditches, utilities, canals, pipelines, powerlines, telephone lines, water lines and rights of way and easements therefore established and or existing as same may cross subject property.

Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as reserved in United States Patent recorded July 6, 1892 in Book 12 at Page 175 as Reception No. 14249. (Sec. 25)

Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as reserved in United States Patent recorded October 17, 1890 in Book 12 at Page 62 as Reception No. 10843. (Sec. 36)

Maps and Statements of the following ditches:

NAME	FILED	RECEPTION NO.
The Virginia Ditch	July 17, 1899	21889
Chenoweth & Mings Ditch	August 11, 1886	2928
Chenoweth & Mings Ditch	September 11, 1885	3079
Chenoweth & Mings Ditch	November 18, 1886	3332
Wolverton Ditch	July 30, 1889	9324

Right of way for the enlargement of the Prendergast/Spion Kop Ditch recorded February 10, 1921 in Book 124 at Page 409 as Reception No. 74258.

Right of way for Prendergast Ditch recorded February 26, 1921 in Book 124 at Page 424 as Reception No. 74440.

Right of way for the Wolverton Mesa Ditch as recorded June 30, 1906 in Book 64 at Page 484 as Reception No. 32120.

Easement and right of way for the use, operation and maintenance of the Williams Canal as granted by Brinkley B. Brown to the Williams Canal Company, recorded May 19, 1975 in Book 474 at Page 44 as Reception No. 267628.

Utility Easement granted to Public Service Company of Colorado 10 feet in width, described in document recorded July 9, 1991 in Book 808 at Page 164 as Reception No. 425192.