

GARFIELD COUNTY
 Building & Planning Department
 108 8th Street, Suite 201
 Glenwood Springs, Colorado 81601
 Telephone: 970.945.8212 Facsimile: 970.384.3470
www.garfield-county.com

Exemption from the Definition of Subdivision

GENERAL INFORMATION

(To be completed by the applicant.)

- Street Address / General Location of Property: 811 - 313 County Road,
New Castle, CO
- Legal Description of Parent Property: See Attached Exhibit A
- Size of Property (in acres) as of January 1, 1973: 47.27
- Current Size of Property to be Subdivided (in acres): 47.27
- Number of Tracts / Lots Created Including remainder of Parent Property: 2
- Proposed size of Tracts / Lots to be Created Including remainder of Parent Property:
 - Lot #: A containing 42.09 acres
 - Lot #: B containing 5.18 acres
 - Lot #: containing acres
 - Lot #: containing acres
 - Lot #: containing acres
- Property's Zone District:
- Name of Property Owner (Applicant): Ron Rogers
c/o Ron Rogers & Lisa Specht Living
- Address: 1875 Century Park East, Ste³⁰⁰ Telephone: 310-552-6922 Trust
- City: LA State: CA Zip Code: 90067 FAX: 552-9052
- Name of Owner's Representative, if any (Planner, Attorney):
Mark E Hamilton, Esq; Caloia, Houpt & Hamilton, PC
- Address: 1204 Grand Ave Telephone: 970-945-6067
- City: Glenwood Springs State: CO Zip Code: 81601 FAX: 945-6292

STAFF USE ONLY

- Doc. No.: Date Submitted: TC Date:

CALOIA, HOUPT & HAMILTON, P.C.
ATTORNEYS AT LAW

SHERRY A. CALOIA
JEFFERSON V. HOUPT
MARK E. HAMILTON
MARY ELIZABETH GEIGER
CYNTHIA F. FLEMING

1204 GRAND AVENUE
GLENWOOD SPRINGS, COLORADO 81601

TELEPHONE (970) 945-6067
FACSIMILE (970) 945-6292
Sender's email: mham@sopris.net

April 6, 2005

Fred Jarman
Mark Bean
Garfield County Planning Department
108 8th Street, Suite 201
Glenwood Springs, CO 81601

RE: Rogers Subdivision Exemption

Dear Fred and Mark:

Enclosed please find an Application for an Exemption from the Definition of Subdivision, which we submit, along with this letter and the enclosed notebook, on behalf of our client, the Ron Rogers and Lisa Specht Living Trust.

The following serves to address the Application Submittal Requirements, and is numbered consistent with the information requested on page 2 of the Application under such heading.

1. **Narrative.** My client wishes to split off a 5.18 parcel from a 47.27 acre property known as Government Lot 2, located on his ranch south of New Castle. The original ranch residence is located on the parcel, and it currently serves as the residence of the ranch manager. No further development is contemplated at this time, nor is my client proposing any changes from the current methods of sewage, water or public and private road usage. The remainder of my client's property will continue to be part of a historical ranching operation.

2. **Sketch Map.** A Map, at a minimum scale of 1"=200' showing the legal description of the property, dimension area, and legal description of all proposed lots or separate interests to be created, access to a public right of way, and any proposed easement for drainage, irrigation, access or utilities, is included in the enclosed notebook. Please note that the title of the plat map will be changed to "Rogers Subdivision Exemption of Government Lot 2" and will appear as such at all subsequent stages of the exemption application process.

3. **Vicinity Map.** A 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, is included in the notebook.

Garfield County Building & Planning Dept.

April 6, 2005

Rogers Subdivision Exemption

Page 2

4. **Deed.** A copy of the Quit Claim Deed evidencing ownership by the Ron Rogers and Lisa Specht Living Trust is included in the notebook. This deed was recorded on April 6, 2005 at Reception No. 671774.

5. **Names and Addresses.**

a. Owners of Record of land adjoining or within 200 feet of property:

(1) Bureau of Land Management, Glenwood Springs Field Office,
50629 Hwys 6 & 24 Glenwood Springs, CO 81601

(2) Richard D. and Kay D. Morgan, 0293 County Road 313, Silt, CO
81652.

(3) Michael W. and Kenda R. Spaulding, 1601 County Road 313, New
Castle, CO 81647.

b. Mineral owners and lessees of mineral owners of record of the property to
be exempted:

Stephen Arthur, P.O. Box 55, Rangely, Colorado 81640.

c. Tenants of any structure proposed for conversion: N/A

6. **Evidence and Characteristics of Soil Types.** Please refer to Exhibit E in the
attached notebook.

7. **Source of Domestic Water.** See Well Permit No. 251111, Exhibit F in attached
notebook.

8. **Sewage Disposal.** The sewage disposal method will be ISDS.

9. **Fire District Letter.** Based upon conversations with Brit McLin, the Fire Chief
for the Burning Mountain Fire District, which serves the parcel at issue, it is my understanding
that subsequent to the submittal of this initial application, and not before, we should solicit a
letter of approval from the district.

10. **Community or Municipal Water Supply.** N/A (the property will be served by a
well and a private sewer system).

11. **Existence of Parcel on January 1, 1973.** The chain of title evidencing that the
legal description existing on January 1, 1973 matches the legal description of the property owned
by Mr. Rogers, is as follows:

CALOIA, HOUPT & HAMILTON, P.C.

Garfield County Building & Planning Dept.

April 6, 2005

Rogers Subdivision Exemption

Page 3

- a. In 1946, Government Lot 2 was owned by Loren W. Arthur and Mary E. Arthur, evidenced by a Deed recorded in Book 219 at Page 261 of the Garfield County real estate records;
 - b. By Deed recorded in the Garfield County real estate records in Book 452 at Page 267 on October 23, 1973, Loren W. Arthur and Mary E. Arthur conveyed to James D. Peterson and Heather M. Peterson property including Government Lot 2.
 - c. By Warranty Deed recorded in the Garfield County real estate records in Book 750 at Page 545 on March 13, 1989, Heather McFarlin Peterson conveyed to Ronald J. Rogers and Lisa Specht property including Government Lot 2:
 - d. By Quit Claim Deed, recorded in the Garfield County real estate records at Reception No. 67777 on April 6, 2005, Ronald J. Roger and Lisa Specht conveyed to the Ron Rogers and Lisa Specht Living Trust Government Lot 2.
12. **Base Fee.** The \$300.00 base fee is included with this submittal.
13. **Two Copies of Submittal Documents.** This letter, the attached application form and the materials in the notebook are being submitted in duplicate.

Please do not hesitate to call me with any questions or comments or to request further information. My understanding is a planner will review this submittal within fifteen (15) working days for technical completeness, at which point we will be contacted regarding the status of the application. I look forward to hearing from you. Thank you for your time and assistance.

Sincerely,

CALOIA, HOUPT & HAMILTON, P.C.



Mark E. Hamilton

MEH/cff

Enclosures

cc: Ron Rogers, w/enc.

COPY

Recorded 4/6/05
Book 1676 Page 706
Receipt # 671774

QUIT CLAIM DEED

RONALD J. ROGERS and LISA SPECHT, whose address is c/o Rogers & Associates, 1875 Century Park East, Suite 300, Los Angeles, CA 90067 (hereinafter "Grantors"), for and in consideration of ten dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby sell and quitclaim to THE RON ROGERS AND LISA SPECHT LIVING TRUST, whose address is c/o Rogers & Associates, 1875 Century Park East, Suite 300, Los Angeles, CA 90067 (hereinafter "Grantee"), its successors and assigns, forever, all of Grantors' right, title and interest in and to the following described property, together with improvements, if any, located in Garfield County, Colorado, to wit:

GOVERNMENT LOT 2, SECTION 18, TOWNSHIP 7 SOUTH, RANGE 91 WEST OF THE 6TH P.M., more particularly described as follows:

BEGINNING AT THE NW1/16 CORNER OF SECTION 18, TOWNSHIP 7 SOUTH, RANGE 91 WEST OF THE 6TH PRINCIPAL MERIDIAN, A BRASS BLM CAP WHICH IS ALSO THE TRUE POINT OF BEGINNING: THENCE S00 DEGREES 37'18"E 1317.97 FEET TO A BLM BRASS CAP, THE W1/16 CORNER OF SAID SECTION 18, TOWNSHIP 7 SOUTH, RANGE 91 WEST OF THE 6TH PRINCIPAL MERIDIAN; THENCE N89 DEGREES 53'25"W 1566.33 FEET TO A BRASS BLM CAP BEING THE W ¼ CORNER OF SECTION 18, TOWNSHIP 7 SOUTH, RANGE 91 WEST OF THE 6TH PRINCIPAL MERIDIAN; THENCE N00 DEGREES 09'18"E 104.15 FEET TO A BLM BRASS CAP; THENCE N00 DEGREES 04'18"W 1215.82 FEET TO THE N1/16 OF SAID SECTION 18; THENCE S89 DEGREES 48'45"E 1553.27 FEET TO THE TRUE POINT OF BEGINNING. SAID PROPERTY CONTAINING 47.22 PLUS OR MINUS ACRES AS DESCRIBED.

TO HAVE AND TO HOLD the same, together with all appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the Grantors, either in law or equity, to the only proper use and benefit of the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantors have executed this deed on this 22nd day of Feb., 2005.

FOR TITLE PURPOSES ONLY—NO CONSIDERATION REQUIRING REVENUE

ROGERS-QCD-Government Lot 2
FN1

After recording, please return to:
Mark E. Hamilton, Esq.
CALOIA, HOUP & HAMILTON, P.C.
1204 Grand Ave.
Glenwood Springs, CO 81601

66—Torriorthents-Camborthids-Rock outcrop complex, steep. This broadly defined unit consists of exposed sandstone and shale bedrock, loose stones, and soils that are shallow to deep over sandstone and shale bedrock and stony basaltic alluvium. This complex occurs throughout the survey area. The soils and outcrops are moderately steep to very steep. Slope ranges from 15 to 70 percent.

Torriorthents make up about 45 percent of the complex, Camborthids make up 20 percent, and Rock outcrop makes up 15 percent. The Torriorthents are on foothills and mountainsides below Rock outcrop. The moderately steep Camborthids are on lower toe slopes and concave open areas on foothills and mountainsides.

Torriorthents are shallow to moderately deep. They are generally clayey to loamy and contain variable amounts of gravel, cobbles, and stones. The surface is normally covered with stones weathered from the higher-lying Rock outcrop. South of the Colorado River, basaltic stones and cobbles are on the surface.

Camborthids are shallow to deep. They are generally clayey to loamy and have slightly more clay in the subsoil than in the surface layer. The surface layer is light colored. The profile is normally free of stones, but scattered basalt stones, cobbles, and sandstone fragments are on the surface.

The Rock outcrop is mainly Mesa Verde sandstone and Wasatch shale. Some areas are covered with basaltic boulders and stones. Small areas of limestone outcrops and exposed gypsum are in the eastern part of the survey area.

Included in mapping are small, isolated areas of Ildesonso, Lazear, Ansari, Begay, Heidt, and Dollard soils. These intermittent areas make up 10 to 20 percent of this map unit.

This complex is used for grazing, wildlife habitat, and recreation.

The stones on the surface and the steep slopes make this complex unsuitable for crops. Some areas can be reseeded to pasture by broadcast seeding. Other planting methods are made difficult by the stones and slopes.

The native vegetation includes wheatgrasses, bluegrasses, Indian ricegrass, needlegrasses, bitterbrush, mountainmahogany, sagebrush, and an overstory of pinyon and juniper.

The value of grazing is fair. The vegetation should be managed to maintain wood production and limited grazing. Selectively thinning the pinyon and juniper improves grazing and provides firewood and posts. Steep slopes, moderate to severe erosion hazard, and slow regrowth of trees affect harvesting and management.

Most of this complex is a prime wintering area for deer. Rabbits, coyote, and a few elk also find food and cover on this complex.

Building is limited by steep slopes and stoniness. These limitations can be overcome by appropriate design and construction.

This complex is in capability subclass VIIe, nonirrigated.

Form No. GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

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

1095

WELL PERMIT NUMBER 251111
DIV. 5 WD 45 DES. BASIN MD

APPLICANT

RON ROGERS
0811 COUNTY ROAD 313
NEW CASTLE, CO 81647-

(970) 876-2249

APPROVED WELL LOCATION

GARFIELD COUNTY
SW 1/4 NW 1/4 Section 18
Township 7 S Range 91 W Sixth P.M.

DISTANCES FROM SECTION LINES

2350 Ft. from North Section Line
1300 Ft. from West Section Line

UTM COORDINATES

Northing: Easting:

PERMIT TO CONSTRUCT A WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT
CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not 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 Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-92-602(3)(b)(II)(A) as the only well on a tract of land of 43.63 acres, note Sec. 18 is an irregular "WIDE" section (45.45 acres less County Road 313 ROW of 1.82 acres) described as the SW 1/4 of the NW 1/4, Sec. 18, Twp. 7 South, Rng. 92 West, 6th P.M., Garfield County. Further identified as 1088 County Road 313, New Castle, CO 81647.
- 4) The use of ground water from this well is limited to fire protection, ordinary household purposes inside not more than three (3) single family dwellings, the irrigation of not more than one (1) acre of home gardens and lawns, and the watering of domestic animals.
- 5) The maximum pumping rate of this well shall not exceed 15 GPM.
- 6) The return flow from the use of this well must be through an individual waste water disposal system of the non-evaporative type where the water is returned to the same stream system in which the well is located.
- 7) This well shall be constructed not more than 200 feet from the location specified on this permit.

NOTICE: This permit has been approved for the location and legal description as noted as noted above. The correct Range is 91 West NOT 92 West as originally submitted. Additionally Sec. 18 is an irregular "WIDE" section approximately 5480 feet East/West. Thus the SW 1/4 of the NW 1/4, Sec. 18 is approximately 45.45 acres. You are hereby notified that you have the right to appeal the issuance of this permit, by filing a written request with this office within sixty (60) days of the date of issuance, pursuant to the State Administrative Procedures Act. (See Section 24-4-104 through 106, C.R.S.)

NOTE: Parcel Identification Number (PIN): 23-2399-192-00-003

NOTE: Assessor Tax Schedule Number: R023376 (totaling 633.67)

Jm 2
06/17/2003

APPROVED
DMW

Hel A. Simpson
State Engineer

Light R. Whitehead
By

Receipt No. 9501526

DATE ISSUED 06-17-2003

EXPIRATION DATE 06-17-2005

RECEIVED TIME DEC. 5. 10:05AM

CALOIA, HOUP & HAMILTON, P. C. 06-95
1204 GRAND AVE. 970-945-6067
GLENWOOD SPRINGS, CO 81601

4302

PAY TO THE ORDER OF Garfield County Builders + Planning DATE 4/6/05

Three hundred and no/100 \$ 300.00



Alpine Bank
2000 Grand Ave. • P.O. Box 10000
Glenwood Springs, CO 81601
(970) 945-2424 • Alpine Info-Line (970) 945-4433

DOLLARS



FOR Rogers Subdivision Exemplar

⑈004302⑈ ⑆102103407⑆ 1010026395⑈

MP

2 Copies received

RECEIVED
APR 06 2005
GARFIELD COUNTY
BUILDING & PLANNING

CALOIA, HOUPT & HAMILTON, P.C.
ATTORNEYS AT LAW

SHERRY A. CALOIA
JEFFERSON V. HOUPT
MARK E. HAMILTON
MARY ELIZABETH GEIGER
CYNTHIA F. FLEMING

1204 GRAND AVENUE
GLENWOOD SPRINGS, COLORADO 81601

TELEPHONE (970) 945-6067
FACSIMILE (970) 945-6292
Sender's email: mham@sopris.net

June 7, 2005

Mark Bean, Director
Garfield County Building & Planning
108 Eighth Street, Suite 201
Glenwood Springs, CO 81601

Re: *Rogers Subdivision Exemption Application*

Dear Mark:

Per your request, enclosed are five more copies of the application materials concerning the above-referenced subdivision exemption application. To the extent that you will be preparing a staff report, I would appreciate receiving a copy. Also, should you receive any comments from neighbors or referral agencies, I would appreciate having an opportunity to review them before the hearing. Please contact me with any questions.

Very truly yours,

CALOIA, HOUPT & HAMILTON, P.C.


Mark E. Hamilton

MEH/bb

Enclosures

cc: Ron Rogers, w/o encl.

ROGERS-Bean-ltr-1
FN 1

RECEIVED

JUN 07 2005

GARFIELD COUNTY
BUILDING & PLANNING

Placed in
conf. room

Please Send Application to the Following Referral Agencies

Application Name: _____

Date Application Sent: _____

- _____ Mt. Sopris Soil Conservation District
- _____ Bookcliff Soil Conservation District
- _____ Town of DeBeque
- _____ City of Rifle
- _____ Town of Basalt
- _____ Town of Carbondale
- _____ City of Glenwood Springs
- _____ Town of New Castle
- _____ Town of Silt
- _____ Town of Parachute
- _____ Eagle County Planning Department
- _____ Rio Blanco County Planning Department
- _____ Pitkin County Planning Department
- _____ Mesa County Planning Department
- _____ Burning Mtn. Fire District
- _____ Town of Silt Fire Department
- _____ Rifle Fire Protection District
- _____ Grand Valley Fire Protection District
- _____ Carbondale Fire Protection District
- _____ Glenwood Springs & Rural Fire
- _____ RE-1 School District
- _____ RE-2 School District
- _____ School District 16
- _____ Carbondale Sanitation District
- _____ Battlement Mesa Water & Sanitation
- _____ Spring Valley Sanitation District
- _____ West Glenwood Sanitation District
- _____ Mid-Valley Metropolitan Sanitation District
- _____ Roaring Fork Water and Sanitation District
- _____ Holy Cross Electric (Roaring Fork, S. of Co. River west)
- _____ Public Service Company (N of Co. River west)
- _____ KN Energy (S. of Co. River, Roaring Fork)
- _____ Western Slope Gas Company
- _____ US West Communications (G.S. & C'dale area)
- _____ US West Communications (N.C., Silt, Rifle)
- _____ US West Communications (Rifle, B.M., Parachute)
- _____ AT&T Cable Service
- _____ Colorado State Forest Service
- _____ Colorado Department of Transportation
- _____ Colorado Division of Wildlife (GWS Office)
- _____ Colorado Division of Wildlife (GJ office)
- _____ Colorado Dept. of Public Health & Environment
- _____ Colorado Division of Water Resources
- _____ Colorado Geological Survey
- _____ Colorado Water Conservancy Board
- _____ Colorado Mined Land Reclamation Board .
- _____ Bureau of Land Management
- _____ Department of Energy – Western Area Power Admin.
- _____ Bureau of Reclamation – Western Colorado Area Office
- _____ US Corps of Engineers
- _____ Northwest Options of Long Term Care
- _____ Roaring Fork Transportation Authority
- _____ Garfield County Road & Bridge
- _____ Garfield County Vegetation (Steve Anthony)
- _____ Garfield County Housing Authority
- _____ Garfield County Engineer (Jeff Nelson)
- _____ Garfield County Oil and Gas Auditor (Doug Dennison)
- _____ Garfield County Sheriff Department

CALOIA, HOUPT & HAMILTON, P.C.
ATTORNEYS AT LAW

SHERRY A. CALOIA
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1204 GRAND AVENUE
GLENWOOD SPRINGS, COLORADO 81601

TELEPHONE (970) 945-6067
FACSIMILE (970) 945-6292
Sender's email: mham@sopris.net

June 12, 2006

VIA HAND DELIVERY

Fred Jarman, Assistant Director
Garfield County Building & Planning
108 Eighth Street, Suite 201
Glenwood Springs, CO 81601

RECEIVED

JUN 12 2006

GARFIELD COUNTY
BUILDING & PLANNING

Re: *Rogers Subdivision Exemption Application*

Dear Fred:

As you and I have discussed on the phone several times recently, my clients, Ron Rogers and Lisa Specht, have continued to move forward with finalizing the subdivision exemption application that was filed in the name of their trust last year. Although last fall the county extended our final plat deadline until June 13, 2006, and we have completed most of the requirements, we have run into an unexpected issue concerning the shared well which is the proposed water supply. Although we recently hired Samuelson Pump Co. to pump test the well and obtain a water quality sample, the pump test was inconclusive. Likewise, while a water quality sample was taken by Samuelson and sent via overnight mail to Grand Junction for lab testing, apparently the sample arrived at the lab more than 24 hours after it was taken, thereby invalidating the test results. We are now working with Zancanella & Associates to correct these deficiencies, and hope to be in place to provide you with more information in about 30 to 60 days.

Also, although the proposed subdivision exemption is for estate planning purposes and therefore involves no planned new roads or homes at this time, the county has requested a weed management plan. If necessary, we would request that we be allowed about the same timeline to complete this task. Please contact me to discuss this issue.

As to the other conditions of approval, I am pleased to report as follows:

1. *Additional plat notes.*

A new draft plat is attached. It includes all plat notes requested.

CALOIA, HOUPT & HAMILTON, P.C.

Fred Jarman
June 12, 2006
Page 2 of 2

2. ***Well sharing agreement.***

A draft Declaration of Covenants Re: Well Sharing is attached.

3. ***Fire district approval.***

A letter dated May 4, 2006 from the Burning Mountain Fire District is attached indicating that their requirements have been met.

4. ***Payment of School Site Acquisition Fees.***

My client stands ready to pay all school fees upon final plat approval. Please provide me with an updated total. Since we are creating two lots out of a larger parcel of about 40 acres, I understand that the charge will be \$200.00 about for each new parcel.

5. ***Noxious Weeds.***

See above request.

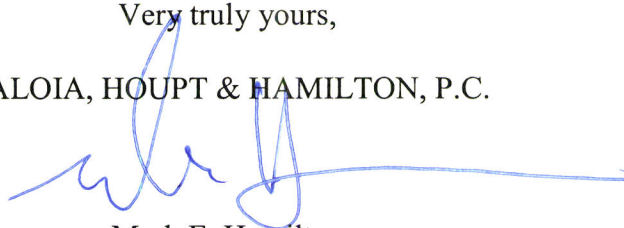
6. ***Confirmation of a water supply.***

Additional well permit documentation is attached which confirms that, from a legal standpoint, an exempt well permit for the proposed shared well is in full force and effect. As to quantity/quality, see above extension request.

In sum, while we are very close, I would respectfully request that my client be allowed another 60-90 days to wrap up this approval process. Please confirm.

Very truly yours,

CALOIA, HOUPT & HAMILTON, P.C.



Mark E. Hamilton

MEH/
enclosures
cc: Ron Rogers & Lisa Specht, w/o encl.

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
THE ROGERS SUBDIVISION EXEMPTION**

DRAFT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE ROGERS SUBDIVISION EXEMPTION, INCLUDING WELL SHARING AGREEMENT, (hereinafter the "Declaration") is made this ____ day of June, 2006, by Ron Rogers and Lisa Specht as Trustees of the Ron Rogers and Lisa Specht Living Trust dated August 11, 1989, as amended from time to time (hereinafter collectively referred to as "Declarant"), current owner of the property described below, which property is located in Garfield County, Colorado.

WHEREAS, Declarant is the sole owner of certain real property located in Garfield County, Colorado, described as Parcels A & B of the Rogers Subdivision Exemption, as depicted on a Final Plat recorded in the Garfield County real property records on _____ 2006, Reception No. _____ (which properties are generally situated in the SW ¼ NW ¼ of Section 18, T. 7 S. R. 91 W of the 6th P.M., Garfield County); and

WHEREAS, a well ("Shared Well") is located upon Parcel B at a point approximately 2350 feet from the N. Sec. Line, and 1300 ft. from the W Sec. Line, of Sec. 18, T. 7 S., R. 91 W., 6th P.M., Garfield County; and

WHEREAS, Declarant is the sole owner of Parcels A & B and the Shared Well; and

WHEREAS, the Colorado Division of Water Resources has issued Well Permit Number 251111 for the Shared Well, which permit allows use of water from the well for fire protection, ordinary household purposes inside three (3) single family dwellings, the irrigation of not more than one acre of homes, gardens and lawns, and the watering of domestic animals; and

WHEREAS, Declarant intends that the Shared Well will continue to serve as the source of potable water for domestic use on Parcels A & B, in the proportions and amounts set forth below;

NOW, THEREFORE, Declarant hereby declares that Parcels A & B and the Shared Well shall be held, sold and conveyed subject to the following restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of this property, and which shall run with title to the Shared Well and Parcels A & B, and be binding upon all parties having any right, title or interest in these properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

1. **Potable Water Supply.** The potable water supply for Parcels A & B shall be the Shared Well, as operated pursuant to Well Permit No. 251111 issued by the Colorado Division of Water Resources. The owner(s) of Parcels A & B shall be jointly responsible for meeting all obligations set forth in such Well Permit.

2. **Water System Easements.** The owner(s) of Parcels A & B shall have a non-exclusive easement to access the Shared Well and all pumphouses, storage tanks, pipelines, and other workings associated with the delivery of potable water to either parcel (collectively referred to as the "Potable Water System"), for reasonable operation and maintenance purposes. Such easement shall include a right to free and unrestricted access for such purposes and shall be twenty (20) feet in width surrounding all parts of the Potable Water System. In the event that any gates, well houses, or other parts of the Potable Water System are locked for security purposes, all owners shall immediately be provided with a key and shall not otherwise be restricted from accessing the Potable Water System. The easements declared and confirmed herein shall be for the benefit of both Parcels A & B. The location of all parts of the Potable Water System shall be determined by cooperation and in a manner which interferes the least with existing structures including but not limited to houses, outbuildings, and roads.

3. **Ownership of the Shared Well.** The owner(s) of Parcels A & B shall each own an undivided 50% interest in the Shared Well. No interest in the Shared Well or Potable Water System may not be transferred apart from Parcels A & B. The owners of Parcels A & B shall be mutually responsible for the Shared Well and to operate, maintain, repair, replace and improve the Shared Well, pumps and any other appurtenant facilities for their joint benefit. The Well Permit shall be put in the joint name of both owners upon the request of either party and the presentation of this document to the Division of Water Resources. The owner(s) of Parcel B shall be designated as the lot owner to receive all mail and documentation relating to the Shared Well and Water System. Copies of all such mail and documentation shall be promptly provided to the owner(s) of Parcel A, or made available for review at the convenience of the owner(s) of Parcel A.

4. **Uses of the Shared Well; water treatment obligations.** The well shall not be used for outdoor irrigation purposes, including lawn and garden irrigation, of more than a total of one (1) acre of area. The owner(s) of Parcels A & B shall agree to how to allocate this irrigated area—but in the absence of agreement neither owner shall irrigate more than one-half (½) acre. Use of water for domestic animals is allowable however such use shall be accomplished in a conservationist manner (*e.g.* water shall not be allowed to run continuously). Upon connection of both Parcels A & B to the shared well, each owner shall install a flow-restrictor valve on their water supply line from the Shared Well to ensure that the maximum draw is not more than one-half (1/2) of the total production from the well. The restrictor should be placed on the line running into each owner's storage tank (described below in Paragraph 7). Lot owners shall be aware that well water is not subject to state water treatment regulations, and therefore use of water is at each lot owner's risk. Any treatment shall be at the option of each individual lot owner. The owners may jointly elect to construct a treatment facility, in which case the costs of such facility and operation and maintenance thereof shall also be shared 50/50.

5. **Emergency Repair of Water System.** In the event that the lot owners are unable to agree upon any maintenance, repair replacement or improvement necessary to continue potable or irrigation water service, any of the lot owners shall be entitled to undertake any maintenance, repair, replacement or improvement necessary and essential to allow continued

water service. In the event that any lot owner(s) decide to undertake any such work absent the consent of the other lot owner(s), he or she shall notify the other lot owner(s) in writing. The lot owner(s) undertaking the work shall, upon completion, provide the other owner(s) with a written statement of the work performed and an allocation of the other lot owner(s)' share of the costs. In the event that emergency repairs are required, before undertaking any such work each lot owner will attempt to contact the other lot owner(s) by phone prior to incurring any expenses for such repairs. Bills for emergency repairs shall be allocated among the two lot owners in the manner set forth below in Paragraphs 9 and 10 for payment of joint expenses associated with the Potable Water System.

6. **In-house uses preferred; no waste.** In-house use of water from the Shared Well shall take precedence over use of water for domestic animals or irrigation. In the event of a shortage, all lot owners shall cooperate and shall reduce their uses accordingly to conserve water. No lot owner shall be entitled to waste water, and each owner shall exercise prudence and conservation in the use of water in order to allow for the efficient and beneficial use of the Shared Well.

7. **Storage.** At the time that a residence is constructed on Parcel A, the owner(s) of both Parcels A & B shall each install a water storage tank not less than 500 gallons in size at such lot owner(s)' sole cost and expense. Such storage tanks shall also be buried at such lot owners' expense where it can intercept all water for the lot from the well and be plumbed into the residence to ensure that there is an adequate supply of water for the residence in the event that the instantaneous pumping rate of the well is inadequate to meet demand. Each lot owner shall also install a booster pump from each storage tank to help meet peak water demands.

8. **No Other Wells.** No other exempt wells may be drilled upon Parcel A or Parcel B unless the drilling of any such well does not jeopardize the status of the Well Permit for the Shared Well which is exempt from administration under the prior appropriation system pursuant to Colo. Rev. Stat. Section 37-92-602(3)(b)(II)(A). No other wells may be drilled on Parcel A or Parcel B absent the unanimous written consent of both lot owner(s) and a valid well permit issued by the Colorado Division of Water Resources. In the event that any lot owner(s) discontinue use of the Shared Well with the consent of the other lot owner(s) pursuant to this Paragraph 8, such discontinuing lot owner(s) interest in the Shared Well shall revert to the owner of Parcel B, upon which the Shared Well is located.

9. **Operation and Maintenance Expenses.** Unless otherwise agreed, the owner(s) of each lot shall be entitled to use an undivided one-half ($\frac{1}{2}$) of the water produced by the Shared Well. The withdrawal of water from the Shared Well shall be for domestic purposes inside up to three (3) single family dwellings, for irrigation of up to one (1) acre of lawns and gardens, and for limited domestic watering of animals as permitted by the State of Colorado. The owner(s) of each lot served by the Shared Well shall pay one-half ($\frac{1}{2}$) of the costs of maintenance, operation, electricity, repair, and replacement of the Shared Well, pump(s) and appurtenant facilities, and the costs of common water lines or other common water facilities. To the extent practicable, the use of electricity shall be monitored via an "hour meter" to be attached

to the electrical line to the well pump. Such meter will allow records to be kept of electrical consumption each year. If either Parcel A or Parcel B is not hooked onto the Shared Well, the owner(s) of such lot shall not be obligated to contribute toward operation and maintenance expenses. If any lot is hooked on but has not yet commenced service, no electricity costs shall be assessed against the owner(s) of such lot. In addition, the owner(s) of each individual lot shall be exclusively responsible for the costs of installation, operation, repair or replacement of any facilities used solely by that lot, including individual service lines and any individual storage tanks.

11. **Covenants to Run.** These covenants and restrictions shall run with all lots within the Property and shall bind the owners thereof, their successors and assigns.

12. **Enforcement.** This document may be enforced by any lot owner(s) or any governmental agency having jurisdiction over the matter, by an action for damages or for injunctive relief to restrain or mandate any action required by this document. The interpretation of this document shall be governed by Colorado law. Unless the parties to any dispute arising with regard to this document agree to an alternate form of dispute resolution, venue for any dispute arising with regard to this document shall be in the courts of Garfield County, Colorado. The prevailing party in any legal action to enforce this document shall be entitled to reasonable attorneys' fees and costs.

13. **Amendments.** This document shall be recorded in the real estate records of Garfield County, Colorado. This document may only be amended by the unanimous written consent of the owner(s) of both Parcel A and Parcel B. No amendment shall be effective until an instrument setting forth such amendment, signed by all lot owners, is recorded in the real estate records of Garfield County, Colorado.

14. **Severability.** Should any provision of this document be declared invalid or unenforceable by a Court of competent jurisdiction, such decision shall not affect that validity of any other provisions, which shall remain in full force and effect.

DATED: _____, 2006.

DECLARANT:

Ronald J. Rogers, as Trustee of the Ron Rogers and
Lisa Specht Living Trust dated August 11, 1989, as
amended from time to time

Lisa Specht, as Trustee of the Ron Rogers and Lisa
Specht Living Trust dated August 11, 1989, as
amended from time to time

STATE OF _____ }
 } ss.
COUNTY OF _____ }

The foregoing Declaration was subscribed and sworn to before me this ____ day of ____.
2006, by Ronald J. Rogers as Trustee of the Ron Rogers and Lisa Specht Living Truust dated
August 11, 1989, as amended from time to time.

WITNESS my hand and official seal.

My commission expires:

Notary Public

STATE OF _____ }
 } ss.
COUNTY OF _____ }

The foregoing Declaration was subscribed and sworn to before me this ____ day of ____.
2006, by Ronald J. Rogers as Trustee of the Ron Rogers and Lisa Specht Living Truust dated
August 11, 1989, as amended from time to time.

WITNESS my hand and official seal.

My commission expires:

Notary Public

BURNING MOUNTAINS FIRE PROTECTION DISTRICT

Brit C. McLin
Chief

611 Main St.
P.O. Box 2
Silt, CO. 81652

Phone: (970) 876-5738
Fax: (970) 876-2774

E-Mail: burningmountainschief@msn.com

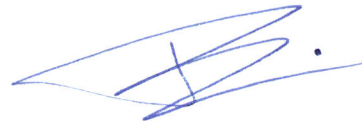
4 May 2006

Rob Gavrell
Caloia, Houpt, & Hamilton, P.C.
1204 Grand Ave.
Glenwood Springs CO 81601

Rob:

Per our conversation today and a review of the documents that you provided, I find no substantive change in either use or occupancy as a result of the proposed subdivision. Therefore there are no additional requirements to be met for this agency. Please ask your clients to notify us if there is an address change due to the parcel split.

Yours truly,



Brit C. McLin

Form No.
GWS-25

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

1095

WELL PERMIT NUMBER 251111
DIV. 5 WD 45 DES. BASIN MD

APPLICANT

RON ROGERS
0811 COUNTY ROAD 313
NEW CASTLE, CO 81647-

(970) 876-2249

APPROVED WELL LOCATION

GARFIELD COUNTY
SW 1/4 NW 1/4 Section 18
Township 7 S Range 91 W Sixth P.M.

DISTANCES FROM SECTION LINES

2350 Ft. from North Section Line
1300 Ft. from West Section Line

UTM COORDINATES

Northing: Easting:

PERMIT TO CONSTRUCT A WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT
CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not 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 Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-92-602(3)(b)(II)(A) as the only well on a tract of land of 43.63 acres, note Sec. 18 is an irregular "WIDE" section (45.45 acres less County Road 313 ROW of 1.82 acres) described as the SW 1/4 of the NW 1/4, Sec. 18, Twp. 7 South, Rng. 92 West, 6th P.M., Garfield County. Further identified as 1088 County Road 313, New Castle, CO 81647.
- 4) The use of ground water from this well is limited to fire protection, ordinary household purposes inside not more than three (3) single family dwellings, the irrigation of not more than one (1) acre of home gardens and lawns, and the watering of domestic animals.
- 5) The maximum pumping rate of this well shall not exceed 15 GPM.
- 6) The return flow from the use of this well must be through an individual waste water disposal system of the non-evaporative type where the water is returned to the same stream system in which the well is located.
- 7) This well shall be constructed not more than 200 feet from the location specified on this permit.

NOTICE: This permit has been approved for the location and legal description as noted as noted above. The correct Range is 91 West NOT 92 West as originally submitted. Additionally Sec. 18 is an irregular "WIDE" section approximately 5480 feet East/West. Thus the SW 1/4 of the NW 1/4, Sec. 18 is approximately 45.45 acres. You are hereby notified that you have the right to appeal the issuance of this permit, by filing a written request with this office within sixty (60) days of the date of issuance, pursuant to the State Administrative Procedures Act. (See Section 24-4-104 through 106, C.R.S.)

NOTE: Parcel Identification Number (PIN): 23-2399-192-00-003

NOTE: Assessor Tax Schedule Number: R023376 (totaling 633.67)

Jm 2
06/17/2003

APPROVED
DMW

Neil A. Simpson
State Engineer

Dyllan M. Whitehead
By

Receipt No. 9501526

DATE ISSUED 06-17-2003

EXPIRATION DATE 06-17-2005

CALOIA, HOUPT & HAMILTON, P.C.
ATTORNEYS AT LAW

SHERRY A. CALOIA
JEFFERSON V. HOUPT
MARK E. HAMILTON
MARY ELIZABETH GEIGER
CYNTHIA F. FLEMING

1204 GRAND AVENUE
GLENWOOD SPRINGS, COLORADO 81601

RECEIVED

OCT 11 2005

GARFIELD COUNTY
BUILDING & PLANNING

TELEPHONE (970) 945-6067
FACSIMILE (970) 945-6292
Sender's email: mham@sopris.net

October 6, 2005

Mark Bean, Director
Garfield County Building & Planning
108 Eighth Street, Suite 201
Glenwood Springs, CO 81601

Re: *Rogers Subdivision Exemption*

Dear Mark:

As you may recall, on June 13, 2005, the Garfield County Board of Commissioners approved the request of the Ron Rogers and Lisa Specht Living Trust for a subdivision exemption of ranch property up East Divide Creek. However, as you may also recall, this approval was subject to certain conditions. These conditions included: (1) additional plat notes; (2) creation of a well sharing agreement; (3) obtaining final approval from the Burning Mountain Fire District; (4) payment of school site acquisition fees; (5) preparation of noxious weed inventory and weed management plan; and (6) confirmation of a water supply. Since June 13, 2005, I have yet to have had an opportunity to satisfy all these requirements. I am also interested in sitting down with you to further discuss completion of this matter. As such, I would respectfully request that you seek approval from the County Commissioners of a 245 day extension of the deadline to satisfy these conditions. My understanding is that, if my request is granted, the new deadline would be on or before June 13, 2006. Please advise me if you need anything else to support this request.

Sincerely,

CALOIA, HOUPT & HAMILTON, P.C.


Mark E. Hamilton

MEH/mh

cc: Ron Rogers

ROGERS R-Bean-ltr-1
FN 1

Bocc
Approved 10/17/05

RIFLE AREA, COLORADO

66—Torriorthents-Camborthids-Rock outcrop complex, steep. This broadly defined unit consists of exposed sandstone and shale bedrock, loose stones, and soils that are shallow to deep over sandstone and shale bedrock and stony basaltic alluvium. This complex occurs throughout the survey area. The soils and outcrops are moderately steep to very steep. Slope ranges from 15 to 70 percent.

Torriorthents make up about 45 percent of the complex, Camborthids make up 20 percent, and Rock outcrop makes up 15 percent. The Torriorthents are on foothills and mountainsides below Rock outcrop. The moderately steep Camborthids are on lower toe slopes and concave open areas on foothills and mountainsides.

Torriorthents are shallow to moderately deep. They are generally clayey to loamy and contain variable amounts of gravel, cobbles, and stones. The surface is normally covered with stones weathered from the higher-lying Rock outcrop. South of the Colorado River, basaltic stones and cobbles are on the surface.

Camborthids are shallow to deep. They are generally clayey to loamy and have slightly more clay in the subsoil than in the surface layer. The surface layer is light colored. The profile is normally free of stones, but scattered basalt stones, cobbles, and sandstone fragments are on the surface.

The Rock outcrop is mainly Mesa Verde sandstone and Wasatch shale. Some areas are covered with basaltic boulders and stones. Small areas of limestone outcrops and exposed gypsum are in the eastern part of the survey area.

Included in mapping are small, isolated areas of Idefonso, Lazear, Ansari, Begay, Heidt, and Dollard soils. These intermittent areas make up 10 to 20 percent of this map unit.

This complex is used for grazing, wildlife habitat, and recreation.

The stones on the surface and the steep slopes make this complex unsuitable for crops. Some areas can be reseeded to pasture by broadcast seeding. Other planting methods are made difficult by the stones and slopes.

The native vegetation includes wheatgrasses, bluegrasses, Indian ricegrass, needlegrasses, bitterbrush, mountainmahogany, sagebrush, and an overstory of pinyon and juniper.

The value of grazing is fair. The vegetation should be managed to maintain wood production and limited grazing. Selectively thinning the pinyon and juniper improves grazing and provides firewood and posts. Steep slopes, moderate to severe erosion hazard, and slow regrowth of trees affect harvesting and management.

Most of this complex is a prime wintering area for deer. Rabbits, coyote, and a few elk also find food and cover on this complex.

Building is limited by steep slopes and stoniness. These limitations can be overcome by appropriate design and construction.

This complex is in capability subclass VIIe, nonirrigated.

3—Ascalon fine sandy loam, 6 to 12 percent slopes. This deep, well drained, moderately sloping to rolling soil is on mesas, terraces, sides of valleys, and alluvial fans. Elevation ranges from 5,000 to 6,500 feet. The soil formed in alluvium derived from sandstone and shale. The average annual precipitation is about 14 inches, the average annual air temperature is about 48 degrees F, and the average frost-free period is about 120 days.

Typically, the surface layer is brown fine sandy loam about 5 inches thick. The subsoil is brown and yellowish brown sandy clay loam about 30 inches thick. The substratum is very pale brown sandy clay loam to a depth of 60 inches.

Included with this soil in mapping are small areas of Olney and Potts soils that have slopes of 1 to 6 percent.

Permeability is moderate, and available water capacity is moderate. Effective rooting depth is 60 inches. Surface runoff is medium, and the erosion hazard is moderate.

This soil is used mainly for irrigated hay and pasture and some crops. Some areas are used for grazing and wildlife habitat.

Corrugations are the main method of applying irrigation water. Sprinklers are also suitable. Steep slopes cause erosion to be more rapid on this soil than on less sloping Ascalon soils. Minimum tillage, cover crops, contour tillage, and grassed waterways help to control erosion. Drop structures are needed in irrigation ditches.

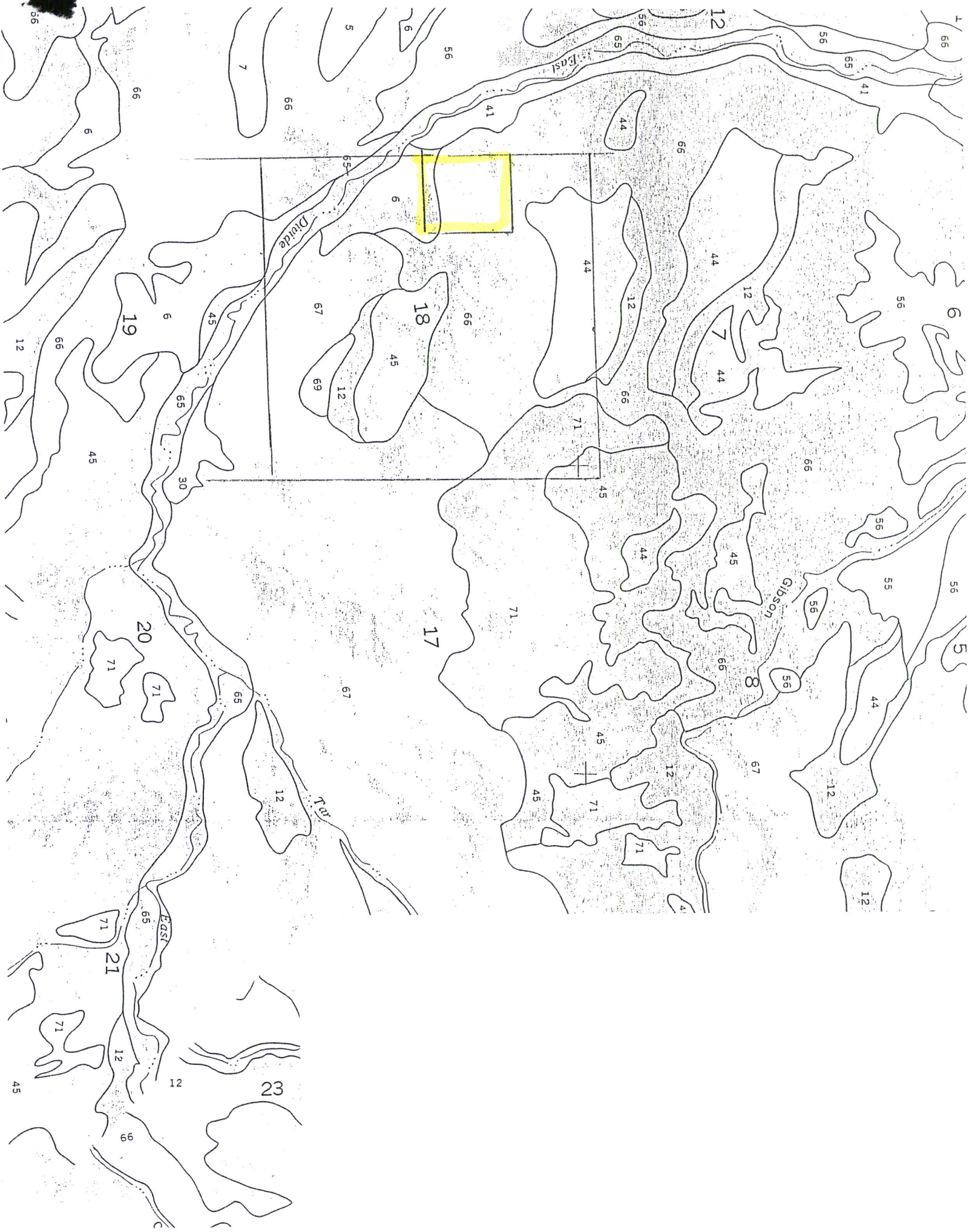
The native vegetation on this soil is mainly needle-and-thread, wheatgrasses, and sagebrush.

When range condition deteriorates, forbs and shrubs increase. When the range is in poor condition, undesirable weeds and annual plants are numerous. Properly managing grazing maintains and improves range condition. Reducing brush also improves the range. Seeding improves range in poor condition. Pubescent wheatgrass, western wheatgrass, and big bluegrass are suitable for seeding. Preparing a seedbed and drilling the seed are good practices.

This soil has potential as habitat for cottontail rabbit, squirrel, pheasant, mourning dove, and wild turkey.

Steep slopes and frost action limit community development. Cuts and fills should be minimal, and drainage is needed for roads and structures.

This soil is in capability subclasses IVe, irrigated, and VIe, nonirrigated.



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 251111 - -
DIV. 5 WD 45 DES. BASIN MD

APPLICANT

RON ROGERS
0811 COUNTY ROAD 313
NEW CASTLE, CO 81647-

(970) 876-2249

APPROVED WELL LOCATION

GARFIELD COUNTY
SW 1/4 NW 1/4 Section 18
Township 7 S Range 91 W Sixth P.M.

DISTANCES FROM SECTION LINES

2350 Ft. from North Section Line
1300 Ft. from West Section Line

UTM COORDINATES

Northing: Easting:

PERMIT TO CONSTRUCT A WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT
CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not 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.
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NOTE: Parcel Identification Number (PIN): 23-2399-192-00-003

NOTE: Assessor Tax Schedule Number: R023376 (totaling 633.67)

DMW
06/17/2003

APPROVED
DMW

Hel A. Simpson

State Engineer

By Sgt M. Whitehead

By

Receipt No. 9501526

DATE ISSUED 06-17-2003

EXPIRATION DATE 06-17-2005

WELL CONSTRUCTION AND TEST REPORT
 STATE OF COLORADO, OFFICE OF THE STATE ENGINEER

FOR USE ONLY
RECEIVED

AUG 25 2003

WATER RESOURCES
 STATE ENGINEER
 COLO.

9501562

APPROVAL # GWS31-91-03

1. **WELL PERMIT NUMBER** 251111

2. **Owner Name(s):** Ron Rogers
Mailing Address: 0811 County Road 313
City, State, Zip : New Castle, Co. 81647
Phone # : 970-876-2249

3. **WELL LOCATION AS DRILLED** SW 1/4 NW 1/4 Sec: 18 Twp: 7 S Range: 91 W
DISTANCES FROM SEC. LINES
 2350 ft. from North Sec. line and 1300 ft. from West Sec. line OR Northing: Easting:
SUBDIVISION: **LOT:** **BLOCK:** **FILING (UNIT):**
STREET ADDRESS AT LOCATION

4. **GROUND SURFACE ELEVATION** ft. **DRILLING METHOD** Air Rotary
DATE COMPLETED: 6/25/2003 **TOTAL DEPTH:** 160 **DEPTH COMPLETION:** 160

5. GEOLOGIC LOG		6. HOLE DIAMETER (in)	FROM (ft)	TO (ft)
Depth	Type of Material (Size, Color, and Type)	9.0	0	40
000-004	Dirt	6.5	40	160
004-160	Wasatch Formation			

7. PLAIN CASING					
OD (in)	Kind	Wall Size	From (ft)	To (ft)	
7.0	Steel	0.240	-1	40	
5.5	PVC	0.250	20	105	
PERF. CASING : Screen Slot Size					
5.5	PVC	0.250	105	160	

Water Located: 105 +
 Remarks :

8. Filter Pack Material : Size : Interval :	9. Packer Placement Type : Depth :
--	--

10. GROUTING RECORD				
Material	Amount	Density	Interval	Placement
Cement	5 sks	6 gal/sk	10-40	poured

11. **DISINFECTION :** Type : HTH Amt. Used : 4 oz.

12. **WELL TEST DATA :** () Check Box If Test Data Is Submitted On Supplemental
TESTING METHOD : Air Compressor
Static Level : 50 ft. **Date/Time Measured** 6/25/2003 **Production Rate** 10 gpm
Pumping Level : Total ft. **Date/Time Measured** 6/25/2003 **Test Length :** 2 hours
Test Remarks :

13. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. (Pursuant to Section 24-4-1-4 (13)(a) CRS, the making of false statements constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.)
CONTRACTOR : Shelton Drilling Corp. **Phone :** (970) 927-4182
Mailing Address : P.O. Box 1059 Basalt, Co. 81621 **Lic. No.** 1095

Name / Title (Please Type or Print) Wayne Shelton / President	Signature 	Date 7/3/2003
---	--	-------------------------

ORIGINAL