

DISTRICT COURT, WATER DIVISION 1,
 COLORADO

Court Address:
 Weld County Courthouse
 P.O. Box 2038
 Greeley, Colorado 80632

GRANT BENTLEY, Applicant,

IN ELBERT COUNTY.

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FILED Document
CO Weld County District Court 19th JD
Filing Date: Feb 28 2006 1:47PM MST
Filing ID: 10680829
Review Clerk: Connie S Koppes

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Case Number: 2006CW_____

**APPLICATION FOR UNDERGROUND WATER RIGHTS FROM
 NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES AND FOR APPROVAL
 OF PLAN FOR AUGMENTATION,
 IN THE NONTRIBUTARY LOWER DAWSON, DENVER, ARAPAHOE AND
 LARAMIE-FOX HILLS AND THE NOT NONTRIBUTARY UPPER DAWSON
 AQUIFERS**

1. Name and address of Applicant:

Grant Bentley
 1001 County Road 158
 Elizabeth, CO 80107

2. Well Permits: Well permits will be applied for prior to construction of the wells.

3. Legal Description of Wells and Subject Property: The wells which will withdraw groundwater from the not nontributary Upper Dawson and nontributary Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers will be located at any location on approximately 1011.93 acres of land located in all of Section 15, and the W1/2 and

SW1/4SE1/4 of Section 14, T7S, R65W of the 6th P.M., as shown on Attachment A hereto ("Subject Property").

4. Source of Water Rights: The source of the groundwater to be withdrawn from the Upper Dawson aquifer is not nontributary as described in 37-90-103(10.7) and 37-90-137(9)(c), C.R.S. The groundwater to be withdrawn from the Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers is nontributary groundwater as described in 37-90-103(10.5), C.R.S.

5. Estimated Amounts and Rates of Withdrawal: The wells will withdraw the groundwater at rates of flow necessary to efficiently withdraw the entire decreed amounts. Applicant will withdraw the subject groundwater through wells to be located at any location on the Subject Property. Applicant waives any 600 foot spacing rule as described in Section 37-90-137(2), C.R.S. for wells located on the Subject Property. The estimated average annual amounts of withdrawal available from the subject aquifers as indicated below, are based upon the Denver Basin Rules, 2 C.C.R. 402-6. Applicant estimates the following annual amounts are representative of the subject aquifers:

<u>Aquifer</u>	<u>Saturated Thickness</u>	<u>Annual Amount</u>
Upper Dawson	175 feet	350 acre-feet (NNT)
Lower Dawson	45 feet	90 acre-feet (NT)
Denver	270 feet	459 acre-feet (NT)
Arapahoe	240 feet	408 acre-feet (NT)
Laramie-Fox Hills	175 feet	262 acre-feet (NT)

Part of the Upper Dawson aquifer water may be reserved for use through exempt wells.

6. Well Field: Applicant requests that this Court determine that Applicant has the right to withdraw all of the legally available groundwater lying below the Subject Property, through wells which may be located anywhere on the Subject Property, and any additional wells which may be completed in the future as Applicant's well fields. As additional wells are constructed, applications will be filed in accordance with 37-90-137(10), C.R.S.

7. Proposed Use: The water will be used, reused, and successively used for municipal, domestic, commercial, industrial, irrigation, livestock watering, fire protection, and exchange and augmentation purposes, both on and off the Subject Property.

8. Jurisdiction: The Water Court has jurisdiction over the subject matter of this application pursuant to 37-92-302(2), and 37-90-137(6), C.R.S.

9. Description of plan for augmentation:

A. Groundwater to be augmented: 75 acre-feet per year over a pumping period of 100 years of Upper Dawson aquifer groundwater as requested herein as described in paragraph 5 above.

B. Water rights to be used for augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of not nontributary and nontributary ground water.

C. Statement of plan for augmentation: Applicant may use the Upper Dawson water through individual or a central water supply system to supply residential lots on the Subject Property. During pumping Applicant will replace actual depletions to the affected stream system pursuant to 37-90-137(9)(c), C.R.S. Depletions may occur to the Cherry Creek, Coal Creek or Running Creek stream systems. If the residential lots use septic systems, return flows from inhouse use will sufficient to replace actual depletions while the subject groundwater is being pumped. If not, Applicant will replace the annual actual amount of depletion to the affected stream system from the Upper Dawson aquifer water at the direction of the Division Engineer. Applicant will reserve an equal amount of nontributary Laramie-Fox Hills aquifer groundwater underlying the Subject Property to meet post pumping augmentation requirements, but reserve the right to substitute the use of other nontributary groundwater underlying the Subject Property, including return flows from use of that water, for replacement of post-pumping depletions at such time that post-pumping depletions may begin.

10. Remarks:

A. Applicant claims the right to withdraw more than the average annual amounts estimated in paragraph 5B above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7.

B. Applicant will withdraw part of the Upper Dawson aquifer water for 100 years under the plan of augmentation requested herein pursuant to 37-90-137(9)(c), C.R.S.

WHEREFORE, Applicant prays that this Court enter a Decree:

11. Granting the application herein and awarding the water rights claimed herein as final water rights, except as to those issues for which jurisdiction of the Court will be specifically retained;

12. Specifically determining that:

A. Applicant has complied with 37-90-137(4), C.R.S., and water is legally available for withdrawal by the wells proposed herein, but that jurisdiction will be retained with respect to the average annual amounts of withdrawal specified herein to provide for

the adjustment of such amounts to conform to actual local aquifer characteristics from adequate information obtained from wells or test holes drilled on or near Applicant's property, pursuant to 37-92-305(11), C.R.S. and Denver Basin Rule 9.A.;

B. The groundwater in the Upper Dawson aquifer is not nontributary and groundwater in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers is nontributary groundwater;

C. Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals of groundwater and the plan for augmentation proposed herein;

D. No findings of diligence are required to maintain these water rights.

FURTHER, Applicant prays that this Court grant such other relief as seems proper in the premises.

RESPECTFULLY Submitted this 28th day of February, 2006.

PETROCK & FENDEL, P.C.

//s// Scott M. Huyler

Scott M. Huyler
Carmen S. Hall

STATE OF COLORADO)
)ss.
CITY AND COUNTY OF DENVER)

Scott M. Huyler, being first duly sworn upon oath, deposes and says that he has read the foregoing application, knows the contents thereof, and that the same are true to the best of his knowledge.

//s// Scott M. Huyler

Scott M. Huyler

Subscribed under oath before me on February 28, 2006.

My commission expires: 2/18/08.

Notary Public

*ORIGINAL SIGNATURE OF SCOTT M. HUYLER ON FILE AT THE OFFICES OF
PETROCK & FENDEL, P.C.*