

DISTRICT COURT, WATER DIVISION 1 COLORADO 901 9th Avenue, Room 418 P. O. Box 2038 Greeley, CO 80632	<table border="1"> <tr> <td>           FILED IN            COMBINED COURTS              JUL 16 '03              WELD COUNTY, COLO.         </td> </tr> </table>	FILED IN COMBINED COURTS  JUL 16 '03  WELD COUNTY, COLO.		
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CONCERNING THE APPLICATION FOR WATER RIGHTS OF MOUNTAIN MUTUAL RESERVOIR COMPANY    IN JEFFERSON COUNTY	<table border="1"> <tr> <td style="text-align: center;"> <b>▲ COURT USE ONLY ▲</b> </td> </tr> <tr> <td>           Case Number 2001CW293         </td> </tr> <tr> <td>           Div.:                      Ctm.:         </td> </tr> </table>	<b>▲ COURT USE ONLY ▲</b>	Case Number 2001CW293	Div.:                      Ctm.:
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<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT          AND DECREE OF THE WATER COURT</b>				

THIS MATTER, having come on for consideration upon the Application of the Mountain Mutual Reservoir Company for Change of Water Rights, Confirmation of Yield of Portfolio of Water Rights and Storage Facilities, and Terms and Conditions under which such Water can be used for Augmentation and Replacement Purposes, and the Court having considered the pleadings, the files herein, the stipulations of the parties, the evidence presented and the comments of the Division Engineer, does find.

**FINDINGS OF FACT**

1. The Application was filed with the Water Clerk, Water Division 1, on December 31, 2001. All notices required by law of the filing of this Application have been fulfilled, and the Court has jurisdiction over the subject matter of this proceeding and over all parties affected hereby, whether they have appeared or not. The land and water rights involved herein are not included within the boundaries of any designated ground water basin.

2. Statements of Opposition to the Application were filed by the Colorado Water Conservation Board, on February 25, 2002; by the Foothills Park and Recreation District, on February 26, 2002; by Theodore M. Zorich, on February 26, 2002; by the City of Englewood, on February 27, 2002; by the Farmers Reservoir and Irrigation Company, on February 28, 2002; by the South Evergreen Water District, on February 28, 2002; by the Evergreen Metropolitan District, on February 28, 2002; by Jefferson County, on February 28, 2002; by the City and County of Denver, acting by and through its Board of Water Commissioners, on February 28, 2002; by the Bear Mountain Homeowners Association, on February 28, 2002; by the Soda Lakes Reservoir and Mineral Water Company, on February 28, 2002; and by the Buffalo Park Development Company, on February 28, 2002;.

No other statements of opposition have been filed and the time for filing such statements has expired.

3. This matter was initially referred to the Referee for consideration pursuant to §37-92-203(7), 10 C.R.S. (2002). On March 27, 2002, by Order of the Referee entered pursuant to §37-92-303(2), 10 C.R.S. (2002), the Application was re-referred to the Water Judge.

4. The mailing address of the Mountain Mutual Reservoir Company (hereinafter referred to as "MMRC"), is as follows:

Mountain Mutual Reservoir Company  
2525 South Wadsworth Blvd., Suite 306  
Lakewood, Colorado 80227

**SUMMARY OF RELIEF REQUESTED:**

5. MMRC seeks a decree confirming changes of its interests in water rights decreed to the Warrior Ditch, the Harriman Ditch and the Soda Lakes Reservoir Nos. 1 and 2. MMRC also seeks confirmation of the quantification of historic consumptive use, as well as the firm yield of consumptive use water available for augmentation, replacement and exchange purposes from the portfolio of water rights and storage facilities described herein, and the terms and conditions under which the water can be used in augmentation plans. The water has and will be used in plans for augmentation processed by MMRC shareholders in the Turkey Creek and Bear Creek drainage basins. To date, eighteen separate plan for augmentation decrees using this water have been approved by this court.

**CHANGE OF WATER RIGHTS:**

6. The water rights which MMRC owns for the benefit of its shareholders (hereinafter referred to as the "subject water rights"), and for which MMRC requests confirmation of the terms and conditions under which the water can be used for augmentation and replacement purposes, are summarized as follows:

a. Harriman Ditch. 7.71 shares of the 400 shares of capital stock (1.93%), issued and outstanding in the Harriman Ditch Company. Said Company owns direct flow water rights decreed to the Harriman Ditch. Pursuant to the Decree entered in Civil Action No. 6832, on February 4, 1884, the Ditch was awarded the following direct flow priorities:

<u>Appropriation Date</u>	<u>Priority No.</u>	<u>Source</u>	<u>Amount</u>	<u>MMRC Entitlement</u>
April 15, 1868	21	Turkey Creek	10.75 cfs	0.2072 cfs
March 16, 1869	23	Bear Creek	7.94 cfs	0.1530 cfs
May 1, 1871	25	Bear Creek	25.54 cfs	0.4923 cfs
March 1, 1882	30	Bear Creek	12.87 cfs	0.2481 cfs

The Bear Creek headgate of the Harriman Ditch is located on the South bank of Bear Creek in the NE 1/4 NE 1/4, Section 2, Township 5 South, Range 70 West, 6th P.M., Jefferson County, Colorado. The Turkey Creek headgate of the Harriman Ditch is located on the South bank of Turkey Creek near the Southwest corner of Section 6, Township 5 South, Range 69 West, 6th P.M., Jefferson County, Colorado. The Ditch was originally decreed for irrigation, livestock watering, domestic and municipal purposes.

b. Warrior Ditch. 2.0 shares of the 160 shares of capital stock (1.25%), issued and outstanding in the Warrior Ditch Company. Said Company owns direct flow water rights decreed to the Warrior Ditch. Pursuant to the Decree entered in Civil Action No. 6832 on February 4, 1884, the Ditch was awarded the following direct flow priorities:

<u>Appropriation Date</u>	<u>Priority No.</u>	<u>Source</u>	<u>Amount</u>	<u>MMRC Entitlement</u>
December 1, 1861	4	Bear Creek	12.33 cfs	0.1541 cfs
April 16, 1862	8	Turkey Creek	2.86 cfs	0.0358 cfs
October 31, 1864	14	Bear Creek	25.47 cfs	0.3184 cfs
April 1, 1865	16	Bear Creek	11.49 cfs	0.1436 cfs

The headgates of the Warrior Ditch are the same as those of the Harriman Ditch, described in Paragraph No. 6(a), above. The Ditch was originally decreed for irrigation purposes.

c. Soda Lakes Reservoir Nos. 1 and 2. 8.71 shares of the 400 shares of capital stock (2.18%), issued and outstanding in the Soda Lakes Reservoir and Mineral Water Company. Said Company owns storage water rights decreed to the Soda Lakes Reservoir Nos. 1 and 2. Pursuant to the Decree entered in Civil Action No. 91471 on September 24, 1935, the Soda Lake Reservoir Nos. 1 and 2 were adjudicated for 1,794 acre feet for irrigation purposes, and 598 acre feet for storage for supplying the City of Denver with water for municipal purposes, including the watering of lawns and gardens. The date of appropriation awarded the structures was February 11, 1893. The Soda Lakes Reservoirs are located in Section 1, Township 5 South, Range 70 West, 6th P.M., Jefferson County. The Reservoirs are filled through the Harriman Ditch.

**HISTORIC USE OF THE SUBJECT WATER RIGHTS:**

7. The water available to the 7.71 shares of stock in the Harriman Ditch Company described above include 3.00 shares utilized on the Robertson Farm, located in the NE 1/4 of Section 11, and the NW 1/4 of Section 12, Township 5 South, Range 69 West, 6th P.M.; 1.63 shares utilized on the Nielsen property, located in the SW 1/4 of Section 11, Township 5 South, Range 69 West, 6th P.M.; and 3.08 shares used on the Belquince property, located in the SW 1/4 of Section 11, Township 5 South, Range 69 West, 6th P.M., all as depicted on the map attached as Exhibit "A."

Based upon an engineering analysis, the average annual consumptive use yield of MMRC's Harriman Ditch water is as follows:

Harriman Priority 23:	16.2 acre feet per year
Harriman Priority 25:	27.7 acre feet per year
Harriman Priority 30:	5.3 acre feet per year
Total Harriman priorities:	49.2 acre feet per year

8. The water available to the 2.0 shares of stock in the Warrior Ditch Company described above was part of 16 shares historically used to irrigate the Theodore Johnson Farm, located in the SW 1/4 of the NE 1/4, the SE 1/4 of the NW 1/4, the E 1/2 of the SW 1/4, and the W 1/2 of the SE 1/4, all in Section 34, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado, as depicted on the attached Exhibit "A."

Based on an engineering analysis, the average consumptive use yield of MMRC's Warrior Ditch water is 30.4 acre feet per year.

9. The water available to the 8.71 shares of stock in the Soda Lakes Reservoir and Mineral Water Company described above was historically used in conjunction with the Harriman Ditch water referenced above. Four shares were historically used on the Robertson property, 1.63 shares were used on the Nielsen property, and 3.08 shares were used on the Belquince property, all as depicted on the attached Exhibit "A."

Based on an engineering analysis, the average consumptive use yield of the Soda Lakes Reservoirs water used on the Robertson property was 5.4 acre feet per year. The average consumptive use yield of the Soda Lakes Reservoirs water used on the Nielsen and Belquince property was 4.7 acre feet per year.

**TERMS AND CONDITIONS UNDER WHICH THE SUBJECT WATER RIGHTS CAN BE USED FOR AUGMENTATION, REPLACEMENT AND EXCHANGE PURPOSES:**

10. The terms and conditions under which the subject water rights can be used for augmentation and replacement purposes are summarized and confirmed as follows. The determinations set forth herein shall be res judicata in future proceedings involving the subject water rights, pursuant to Williams v. Midway Ranches, 938 P.2d 515 (Colo. 1997).

a. MMRC's Harriman Ditch Entitlement (i.e. 7.71 shares):

i. Only the historic consumptive use portion of MMRC's Harriman Ditch entitlement shall be utilized by MMRC for replacement, augmentation, exchange and storage purposes. Diversions under the March 16, 1869 and the May 1, 1871 priorities decreed to the Ditch are limited as follows:

Priority Number	Appropriation Date	Diversion Rates in cfs					
		Apr.	May	Jun.	Jul.	Aug.	Sep.
23	3-16-1869	.087	.117	.130	.078	.078	.081
25	5-01-1871	.098	.171	.353	.257	.187	.213

Priority Number	Appropriation Date	Apr.	May	Jun.	Jul.	Aug.	Sep.	Total Maximum Ten Year Diversions
								Acre feet
23	3-16-1869	16.5	41.8	52.8	20.9	16.5	13.5	162
25	5-01-1871	13.2	47.3	126.5	110.0	52.8	26.4	330

The water may be stored in the Soda Lakes Reservoirs and Meadowview Reservoir to the extent there is space in MMRC's storage accounts. The water may also be left in the stream system to offset depletions resulting from water use by MMRC shareholders.

ii. MMRC's entitlement to the April 15, 1868 priority decreed to the Harriman Ditch (i.e. 0.2072 cfs of Priority No. 21 from Turkey Creek), shall be used only for substitution and exchange purposes involving structures located within the Turkey Creek drainage basin.

iii. To provide for the maintenance of historic ditch losses, an amount of water equal to fifteen percent (15%) of MMRC's pro-rata entitlement to the Harriman Ditch direct flow priorities from Bear Creek (i.e. up to a maximum of 0.0230 cfs of the March 16, 1869 priority;

up to a maximum of 0.0738 cfs of the May 1, 1871 priority; and up to a maximum of 0.0372 cfs of the March 1, 1882 priority), is available for call by the Harriman Ditch Company for the benefit of the shareholders who continue to use the Harriman Ditch.

iv. 0.0655 cfs of MMRC's pro-rata entitlement to the May 1, 1871 priority decreed to the Harriman Ditch and 0.2109 cfs of MMRC's pro-rata entitlement to the March 1, 1882 priority decreed to the Harriman Ditch shall be abandoned to Bear Creek, upon expiration of a retained jurisdiction period.

v. Whenever water rights within former Water District No. 9 holding priorities between May 1, 1871 and March 1, 1882 are being curtailed because of a call originating from the South Platte River, the diversion rates for the May 1, 1871 priority decreed to the Harriman Ditch (i.e. Priority No. 25), shall be reduced sixteen percent (16%), in accordance with the following schedule:

Priority Number	Appropriation Date	Diversion Rates in cfs					
		Apr.	May	Jun.	Jul.	Aug.	Sep.
25	5-01-1871	.082	.144	.297	.216	.157	.179

b. MMRC's Warrior Ditch Entitlement (i.e. 2.0 shares):

i. Only the historic consumptive use portion of MMRC's Warrior Ditch entitlement shall be utilized by MMRC for replacement, augmentation and exchange purposes. Diversions under the December 1, 1861 and the October 31, 1864 priorities decreed to the Ditch are limited as follows:

Priority Number	Appropriation Date	Diversion Rate in cfs	Time Period of Diversion	Maximum Yearly Diversion (AF)
4	12-01-1861	0.0809	May 1 - October 31	21.7
14	10-31-1864	0.0892	June 1 - August 31	8.7

Whenever the above referenced priorities decreed to the Warrior Ditch are available during the period May 1 through October 31 of each year, MMRC may place a call for the water, up to the diversion rates stated, for purposes of offsetting depletions resulting from water use by MMRC shareholders. Alternatively, the water may be diverted to storage in the Soda Lakes Reservoirs and Meadowview Reservoir to the extent there is space in MMRC's storage accounts.

ii. MMRC's entitlement to the April 16, 1862 priority decreed to the Warrior Ditch (i.e. 0.0358 cfs of Priority No. 8 from Turkey Creek), shall be used only for substitution and exchange purposes involving structures located within the Turkey Creek drainage basin.

iii. To provide for the maintenance of historic ditch losses, an amount of water equal to twenty percent (20%) of MMRC's pro-rata entitlement to the Warrior Ditch direct flow priorities from Bear Creek (i.e. up to a maximum of 0.0308 cfs of the December 1, 1861 priority; up to a maximum of 0.0637 cfs of the October 31, 1864 priority; and up to a maximum of 0.0287 cfs of the April 1, 1865 priority), shall be available for call by the Warrior Ditch Company for the benefit of the shareholders who continue to use the Warrior Ditch.

iv. 0.0424 cfs of MMRC's pro-rata entitlement to the December 1, 1861 priority decreed to the Warrior Ditch, 0.1655 cfs of MMRC's pro-rata entitlement to the October 31, 1864 priority decreed to the Warrior Ditch and 0.1149 cfs of MMRC's pro-rata entitlement to the April 1, 1865 priority decreed to the Warrior Ditch shall be abandoned to Bear Creek, upon expiration of a retained jurisdiction period.

c. MMRC's Soda Lakes Reservoir Nos. 1 and 2 Entitlement (i.e. 8.71 shares):

i. MMRC's full entitlement to the storage priorities decreed to the Soda Lakes Reservoir Nos. 1 and 2 may be diverted each year to the extent the storage rights are in priority. MMRC's storage account in the Soda Lakes system is limited to 2.18% of the actual storage capacity of the system.

ii. All water in MMRC's storage account on November 1 of each year (i.e. the beginning of the storage season), shall be considered available for use as replacement water in plans for augmentation administered by MMRC, with the exception of reserved ground and surface water return flows described herein.

iii. The unused storage capacity available to MMRC in the Soda Lakes system at the beginning of each storage season is determined by the pro-rata storage entitlement available to 8.71 shares, less the physical carryover of

Soda Lakes decree water in MMRC's account on the previous October 31.

iv. Twenty percent of the water stored under the Soda Lakes Reservoir Nos. 1 and 2 storage priorities for the benefit of MMRC between November 1 and the following May 31 of each water year is reserved for release to Marston Reservoir through the Harriman Ditch. A request for such a release must be made by the Denver Water Department on or before June 30 of the water year in which the water is stored. The twenty percent figure represents historic ground water return flows associated with MMRC's entitlement to the Soda Lakes Reservoir Nos. 1 and 2 storage rights.

v. Twenty percent of the water stored under the Soda Lakes Reservoir Nos. 1 and 2 storage priorities for the benefit of MMRC between June 1 and the following October 31 of each water year is reserved for release to Marston Reservoir through the Harriman Ditch. A request for such a release must be made by the Denver Water Department on or before November 30 of the same calendar year when the water is stored. The twenty percent figure represents additional historic delayed ground water return flows associated with MMRC's entitlement to the Soda Lakes Reservoir Nos. 1 and 2 storage rights.

vi. If the Denver Water Department fails to make a request for the release of the water described in (iv) and (v), above, by the dates specified, said water automatically becomes the property of MMRC and is available for augmentation and replacement purposes.

vii. No later than May 31 of each storage season, twenty percent of the water stored under the Soda Lakes Reservoir Nos. 1 and 2 storage priorities for the benefit of MMRC between November 1 and the following May 31 of each water year is released to Turkey Creek in accordance with the direction of the State water administration officials. The twenty percent figure represents historic surface water return flows associated with the subject water rights.

viii. No later than November 30 of each water year, twenty percent of the water stored under the Soda Lakes Reservoir Nos. 1 and 2 storage priorities for the benefit of MMRC between June 1 and the following October 31 of each calendar year is released to Turkey Creek in accordance with the direction of the State water



administration officials. The twenty percent figure represents historic surface water return flows associated with the subject water rights.

ix. MMRC shall be assessed a proportionate amount of the evaporation and seepage losses from the Soda Lakes Reservoir Nos. 1 and 2 in accordance with the operating rules and regulations of the Soda Lakes Reservoir and Mineral Water Company. The same standard for evaporation and seepage losses applies to all water stored in the Soda Lakes system; provided, however, that until an actual record of evaporation and seepage losses is established, three acre feet of the water stored in MMRC's account each year is reserved for such purposes.

x. Any release of MMRC's water stored in the Soda Lakes system to Turkey Creek or the Harriman Ditch for augmentation and replacement purposes, or for purposes of filling tank trucks, shall be in accordance with the operating rules and regulations of the Soda Lakes Reservoir and Mineral Water Company.

11. MMRC's interests in the Harriman Ditch, Warrior Ditch and Soda Lakes Reservoir Nos. 1 and 2 water rights, as described above, are approved for the following purposes: augmentation, replacement, exchange, substitution, storage, and the right to use, reuse and make a succession of uses of such water to extinction, either directly or by exchange. Direct use of the subject water rights includes, but is not limited to, leaving the consumptive use portion of the water in the stream as replacement water for well depletions. Diversion of the subject water rights by exchange into Meadowview Reservoir may be done pursuant to the appropriate rights of substitution and exchange decreed in Case No. 2000CW060 and the conditional exchange right decreed herein, or any exchange right that may be decreed in Case No. 94CW290. The only reservoir in the Turkey Creek drainage basin into which water will be exchanged pursuant to the exchange decreed herein, the exchange decreed in Case No. 2000CW060 and any exchange decreed in Case No. 94CW290 shall be Meadowview Reservoir. The terms and conditions defining how the subject water rights are used in particular augmentation plans shall be determined by subsequent decrees issued after publication of the details of each plan in the water resume, or with the approval of the State Engineer pursuant to §37-92-308, 10 C.R.S. (2002).

**FIRM YIELD OF THE PORTFOLIO OF MMRC WATER RIGHTS AND STORAGE FACILITIES:**

12. A computer model has been created to determine the overall "firm" yield of consumptive use water available from the

MMRC portfolio of the subject water rights and storage facilities, ("subject MMRC water"). The term "firm yield" is defined as the amount of consumptive use water available for delivery by MMRC to its shareholders each and every day, specifically including, but not limited to, periods of drought. The model has also been used to determine the volume of firm yield water that can be delivered to Turkey Creek and its tributaries ("Turkey Creek firm yield"), and the volume of firm yield water that can be delivered to Bear Creek and its tributaries, not including Turkey Creek, ("Bear Creek firm yield"). A summary of the model and the results are set forth in the attached Exhibit "B." The model shall be maintained by MMRC, with a copy made available to TZA Water Engineers, Inc.

13. One of the storage facilities to be used by MMRC in the Turkey Creek basin is Meadowview Reservoir. The Reservoir is located in the NE 1/4 SW 1/4 and the NW 1/4 SE 1/4 of Section 26, Township 5 South, Range 71 West, 6th P.M., Jefferson County, Colorado. The inlet to the Reservoir will be located at a point 2,470 feet East and 3,520 feet South of the NW corner of said Section 26. The outlet to the Reservoir will be located at a point 3,000 feet East and 3,800 feet South of the NW corner of said Section 26.

14. The overall firm yield of the subject MMRC water has been demonstrated to be 62.8 acre feet per year. Of this amount, 23.8 acre feet per year is available for delivery to the Turkey Creek side of the Bear Creek drainage basin, primarily via releases from Meadowview Reservoir. The remaining volume of firm yield supply (i.e. 39 acre feet per year), is available for delivery to the Bear Creek side of the Bear Creek drainage basin, primarily via releases from the Soda Lakes Reservoirs and the assignment of Warrior Ditch water for direct replacement.

15. The firm yield volumes set forth herein are contingent upon Meadowview Reservoir having an active capacity of at least 49.3 acre feet upon construction. In addition, the percentage ownership of the space in Meadowview Reservoir must coincide with the percentage delivery of firm yield water. If the "as built" active capacity of Meadowview Reservoir is less than 49.3 acre feet, MMRC shall notify the Opposers and the Court pursuant to the retained jurisdiction provisions set forth herein, and the firm yield figures shall be recalculated using the computer model referenced above.

16. The firm yield volumes are based on the best current information available for the physical capacity of the Soda Lakes Reservoir Nos. 1 and 2. The Court finds that the most conservative estimate of storage space available to MMRC in the Soda Lakes Reservoirs is 36.58 acre feet. The figure is subject to upward

adjustment in the future as more accurate information becomes available, or provisions are made by the Soda Lakes Reservoir and Mineral Water Company to allow shareholders to fully utilize water held in the dead storage pool of each Reservoir.

17. The average volume of consumptive use water available to MMRC from the Warrior Ditch and Harriman Ditch direct flow and the Soda Lakes Reservoir Nos. 1 and 2 storage rights described above is 89.7 acre feet per year. The firm yield volumes set forth herein are, therefore, subject to upward adjustment if the volume of storage space in the Soda Lakes Reservoir Nos. 1 and 2 available to MMRC can be documented as being greater than 36.58 acre feet, and/or if MMRC acquires additional water rights or storage in the Bear Creek/Turkey Creek drainage basin. In the event that MMRC desires to modify the firm yield figures set forth herein due to one of the above referenced events occurring, such a request shall be published in the Water Resume in an application involving a future plan for augmentation in order to allow Opposers and other interested persons and entities to participate and evaluate the basis for the increase.

18. The volume of firm yield water committed to all existing decreed and currently pending plans for augmentation which utilize the subject water rights are summarized in the attached Exhibit "C." Although the terminology is different, Exhibit "C" does not make any change in the amount of augmentation and exchange water allocated to existing decrees. Future decrees approving plans for augmentation which utilize the subject MMRC water shall contain a revised version of Exhibit "C" as an attachment so that the State water administration officials and others can ensure that there is never an overcommitment of available augmentation and replacement water.

19. Notwithstanding the determination of firm yield set forth in this Decree, the State water officials shall curtail all out-of-priority diversions which are augmented pursuant to this Decree, or pursuant to another decree which uses the subject MMRC water as the replacement supply, if the depletions from those diversions are not replaced so as to prevent injury to vested water rights.

**APPROPRIATIVE RIGHT OF SUBSTITUTION AND EXCHANGE (CONDITIONAL):**

20. MMRC seeks an adjudication of a conditional appropriative right of substitution and exchange in the amount of 1.0 cubic foot per second, CONDITIONAL, pursuant to Sections 37-80-120 and 37-92-302(1)(a), 10 C.R.S. (2002). The purposes of the appropriative right of substitution and exchange are to fill and maintain storage in Meadowview Reservoir, and to permit continuous diversions of water from the wells and surface diversion facilities of MMRC

shareholders in the Turkey Creek drainage basin when curtailment would otherwise be required under the priority system.

21. In order that MMRC will have sufficient augmentation water supplies to replace shareholder depletions occurring in the Turkey Creek drainage basin, MMRC will exchange, pursuant to a December 31, 2001, priority date, portions of its Harriman Ditch and Warrior Ditch direct flow rights, as well as water previously stored in Soda Lakes Reservoir Nos. 1 and 2, into Meadowview Reservoir and to various points of depletion in the Turkey Creek drainage basin that are located within the exchange reaches described herein. Direct flow water available to MMRC will be left in the stream or water will be released from storage at a rate equivalent to the rate at which depletions from water usage by MMRC shareholders in the Turkey Creek drainage basin are then occurring and/or water is being diverted into Meadowview Reservoir. In this way, the flow of water in the stream system below the point where replacement water is delivered will be unaffected by depletions resulting from water use by MMRC shareholders or diversions into Meadowview Reservoir. If the calling water right is within the Harriman Ditch system, MMRC may release water from Soda Lakes Reservoirs directly to the Harriman Ditch, or MMRC may deliver its direct flow rights to the Harriman Ditch at either the Bear Creek or Turkey Creek headgates; provided, however, that any use of the April 16, 1862 priority decreed to the Warrior Ditch and the April 15, 1868 priority decreed to the Harriman Ditch shall be subject to the conditions set forth in Paragraph No. 24, herein.

22. The reaches of the stream system affected by the MMRC exchange shall include sections of Turkey Creek and its tributaries. The downstream point for the exchange shall be the confluence of Bear Creek and Turkey Creek at Bear Creek Lake in Section 5, Township 5 South, Range 69 West, 6th P.M., Jefferson County, Colorado. The exchange shall extend upstream on Turkey Creek to its confluence with North Turkey Creek and South Turkey Creek in the NW 1/4 NW 1/4 of Section 27, Township 5 South, Range 70 West, 6th P.M.; and thence either up North Turkey Creek to the inlet facilities for Meadowview Reservoir in the S 1/2 of Section 26, Township 5 South, Range 71 West, 6th P.M. as more particularly described in the Decree entered in Case No. 2000CW060, or up South Turkey Creek to Section 12, Township 6 South, Range 71 West, 6th P.M.

23. The exchange will operate only when there is a live stream between the point where exchange water is released to the stream system, (i.e. the confluence of Bear Creek and Turkey Creek, or the confluence of the Soda Lakes outlet Ditch and Turkey Creek as described above), and the particular upstream point of exchange; provided, however, that notwithstanding the above provision, the

State water administration officials, on a case by case basis, may authorize an exchange which commands the entire flow of the stream at a particular location outside of a senior instream flow reach if they reasonably determine that there will be no injury to any other water right, and by so doing the instream flow right decreed to the Colorado Water Conservation Board ("CWCB") in Case No. 94CW250 remains fully satisfied. Prior to operating the exchange, MMRC shall notify the appropriate State water administration official and obtain approval to proceed. To the extent that more water is diverted to storage in Meadowview Reservoir than is proper for whatever reason, any such over diversions shall be released to North Turkey Creek within twenty-four hours of such information becoming known to MMRC.

24. The exchange of water shall be conducted only when all water rights which are located within the exchange reach, and whose priorities are senior to December 31, 2001, are either (1) in priority and fully satisfied, or (2) unable to divert water to the extent then desired because of being partially or totally called out by a downstream senior water right that is located at or below the point where MMRC delivers substitution and replacement water. Senior intervening water rights shall be deemed to be in priority when the physical supply of water available to any such water right, at its point of diversion, would entitle its user to divert water for beneficial use from a point within the exchange reach, but for diversions by MMRC hereunder, and the user is then seeking to make such a diversion of water. MMRC's entitlement to the April 16, 1862, priority decreed to the Warrior Ditch and the April 15, 1868, priority decreed to the Harriman Ditch shall not be used to call any water right or exchange that diverts above the Warrior Ditch on Turkey Creek, or its tributaries. This Paragraph No. 24 shall apply to all water rights except the instream flow decreed in Case No. 94CW250 which is addressed in Paragraph No. 25, herein.

25. MMRC has stipulated with the CWCB that if the exchange involves moving water upstream on North Turkey Creek within the instream flow reach described in the Decree entered in Case No. 94CW250, (i.e. the section of North Turkey Creek between its confluence with an unnamed tributary in the SW 1/4 SE 1/4 of Section 25, Township 5 South, Range 71 West, 6th P.M., and its confluence with South Turkey Creek), such an exchange shall not be operated unless the CWCB's instream flow right is fully satisfied; provided, however that this limitation shall not apply if the exchange is limited to offsetting the instantaneous stream depletions then occurring from pumping of wells included in plans for augmentation that utilize augmentation and replacement water supplied by MMRC in accordance with the Stipulation entered into in Case No. 94CW290 by the CWCB and MMRC, in particular Paragraph Nos. 1.13, 5.2 and 6.11 of Attachment "1" to the Stipulation.

26. All water diverted by MMRC from Turkey Creek or Bear Creek pursuant to the substitution and exchange practices described herein that is attributable to MMRC's entitlement to the April 16, 1862, priority decreed to the Warrior Ditch, shall be included in the annual volumetric limit set forth herein for the December 1, 1861, priority decreed to the Warrior Ditch (i.e. Priority No. 4 from Bear Creek), or the October 31, 1864, priority decreed to the Warrior Ditch (i.e. Priority No. 14 from Bear Creek), and shall be limited to the diversions season specified herein.

27. All water diverted by MMRC from Turkey Creek or Bear Creek pursuant to the substitution and exchange practices described herein that is attributable to MMRC's entitlement to the April 15, 1868, priority decreed to the Harriman Ditch, shall be included in the ten year volumetric limits specified herein for the March 16, 1869, priority decreed to the Harriman Ditch (i.e. Priority No. 23 from Bear Creek), and shall be limited to the diversion season specified herein.

28. MMRC has demonstrated that water in the amount claimed for exchange can and will be diverted and beneficially used, and that the project can and will be completed with diligence and within a reasonable time, pursuant to the requirements of §37-92-305(9)(b), 10 C.R.S. (2002).

**GENERAL OPERATING CRITERIA FOR AUGMENTATION PLANS USING THE SUBJECT WATER RIGHTS AND RECORD KEEPING:**

29. Due to the small volume of annual stream depletions projected to occur from water use by MMRC shareholders, during times when the exchange of Harriman Ditch and Warrior Ditch water cannot be operated, the depletions then occurring may be aggregated and replaced by one or more releases of short duration from a reservoir located upstream of all water rights deprived of water during the period of aggregation. The rate and timing of an aggregated release shall be determined by the Division Engineer or his designated representative, and with regard to releases from Meadowview Reservoir the coordination with the owner of the water right deprived of water during the period of aggregation; provided, however, that an aggregated release shall be required no more frequently than once per month or as reasonably required by the Division Engineer; and further provided that the downstream water right deprived of water during the period of aggregation is allowed to divert the water so released regardless of the river call then existing.

30. If a call is on Turkey Creek or its tributaries at a time when depletions to Turkey Creek associated with water use by a MMRC shareholder are occurring and no water is available in Meadowview

Reservoir, a homeowners association that is authorized to accept such obligations, and required to do so, will physically transport water stored in Soda Lakes Reservoirs by tank truck for delivery to the stream system at a location upstream of the point of injury. To the extent that a homeowners association does not fulfill such obligations, MMRC shall be responsible for the physical transport of augmentation and replacement water. With regard to reservoirs that fill from Turkey Creek, the Division Engineer or his designated representative shall allow the delivery of trucked water directly to a reservoir entitled to receive augmentation and replacement water from MMRC, in lieu of releasing such water to the stream system. With regard to all other reservoirs entitled to receive such water, the Division Engineer may allow the delivery of trucked water directly to the reservoir.

31. Future plans for augmentation which utilize the subject water rights as the augmentation and replacement source shall be incorporated into the existing water rights administration program of MMRC. Out-of-priority depletions shall be summarized in the reports made to the State water officials for all plans for augmentation which utilize MMRC augmentation water supplies. On the basis of the submitted reports, and in accordance with the directives of the Division Engineer, MMRC shall make the required release of augmentation water by properly documenting the instream delivery of replacement water from the Warrior Ditch and the Harriman Ditch, or the release of storage water from the Soda Lakes Reservoirs and Meadowview Reservoir. MMRC shall account for all water which is stored in and released from Meadowview Reservoir, including evaporation and seepage losses. MMRC shall be entitled to augmentation and replacement credit for seepage losses from Meadowview Reservoir to the extent that the volume of such seepage losses can be documented and the water reaches North Turkey Creek or its alluvium. An example of the type of information to be included in the water accounting to be maintained by MMRC is attached as Exhibit "D." Upon payment of reasonable copying costs, postage and handling, any Opposer may request from MMRC, copies of the reports furnished to the State water administration officials. It is not the Court's intention to mandate the use of Exhibit "D" in its existing format. The Exhibit has been included simply to provide an illustration of the information that must be gathered and recorded. MMRC, with the approval of the Division Engineer, can modify the form in the future as changes may become necessary for proper administration.

32. MMRC shall install and maintain such measuring devices as the Division Engineer may reasonably require for administration of the delivery of the subject water rights to MMRC shareholders under individual plan for augmentation decrees processed by shareholders.

33. The Court finds that, subject to the terms and conditions contained in this decree, the provisions set forth herein can be fully implemented without material injury to the vested water rights or decreed conditional water rights of other water users in the South Platte River Basin.

#### CONCLUSIONS OF LAW

34. The court has jurisdiction of the subject matter of this case and all persons affected hereby, whether they have appeared or not, pursuant to Sections 37-92-203(1), 37-92-302 and 37-92-304, 10 C.R.S. (2002).

35. This Application was filed with the Water Clerk, Water Division No. 1, pursuant to §37-92-302(a), 10 C.R.S. (2002). Statements of Opposition were filed by the parties listed in Paragraph No. 2. As is specified in §37-92-302(1)(c), 10 C.R.S. (2002), the time for filing statements of opposition has expired. Applicants have entered into Stipulations with the South Evergreen Water District, City and County of Denver, acting by and through its Board of Water Commissioners, Theodore M. Zorich, City of Englewood, Buffalo Park Development Company, Farmers Reservoir and Irrigation Company, the Evergreen Metropolitan District, the Foothills Park and Recreation District, Bear Mountain Homeowners Association, Soda Lakes Reservoir and Mineral Water Company, Colorado Water Conservation Board and Jefferson County. The terms and conditions of said Stipulations are incorporated herein by reference.

36. The changes of water rights confirmed and approved herein are contemplated by law, and if administered in accordance with the terms and conditions of this decree, will not result in material injury to vested water rights or decreed conditional water rights of others. The appropriative rights of substitution and exchange conditionally decreed herein are contemplated by law and if properly implemented and administered, water can be diverted by exchange to storage and to replace depletions from wells and surface structures without causing material injury to the owners of or persons entitled to use water pursuant to vested water rights or decreed conditional water rights. Sections 37-92-305(3), (5) and (8), §37-80-120 and §37-83-104, 10 C.R.S. (2002).

37. The State Engineer may lawfully be required to administer this Decree in the manner set forth herein.



**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

38. The Application for Change of Water Rights and Confirmation of Yield of Portfolio of Water Rights and Storage Facilities and Terms and Conditions under which such Water can be used for Augmentation and Replacement Purposes requested by the Mountain Mutual Reservoir Company is approved.

39. All of the foregoing Findings of Fact and Conclusions of Law are incorporated by reference herein, and are to be considered a part of the decretal portion hereof as though set out in full.

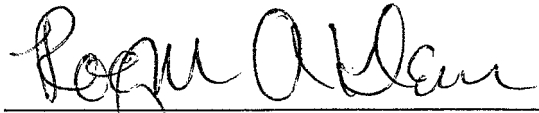
40. Pursuant to the provisions contained in §37-92-304(6), 10 C.R.S., (2002), this Decree shall be subject to the reconsideration of this Court, for the purpose of evaluating injury to vested water rights, for a period of five years from the date that Meadowview Reservoir has been constructed and operated, and notice that said period has begun has been filed with the Court and served on all parties who have appeared herein, or their counsel of record. Any person, within the designated period, may petition the Court to invoke its retained jurisdiction. Any such request shall state with particularity the factual basis for requesting that the Court evaluate injury to vested water rights associated with the operation of this Decree, together with proposed decretal language to effect the petition. Unless otherwise stated herein, the party lodging the petition shall have the burden of going forward to establish the prima facie facts alleged in the petition. If the Court finds those facts to be established, Applicant shall thereupon have the burden of proof to show: (a) that any modification sought by Applicant will avoid injury to other appropriators, or (b) that any modification sought by an Opposer is not required to avoid injury to other appropriators, or (c) that any term or condition proposed by Applicant in response to Opposer's petition does avoid injury to other appropriators. Such petition shall be filed with the Court under the above styled caption and case number and shall be served by certified mail, return receipt requested, on all parties who have appeared herein, or on their counsel of record. If no such petition is lodged within the designated period, and the retained jurisdiction period is not extended by the Court in accordance with the provisions of the statute, this Decree shall become final under its own terms.

41. The priority awarded herein to the exchange described herein was filed in the Water Court in 2001 and shall be administered as having been filed in that year, and shall be junior to all priorities filed in previous years. As between all rights filed in the same calendar year, priorities shall be determined by

historical dates of appropriation and not affected by the date of entry of ruling.

42. It is also ordered that the conditional exchange right awarded herein is hereby continued in full force and effect until July 31, 2009. If MMRC desires to maintain such conditional decree, an application for a finding of reasonable diligence shall be filed on or before July 31, 2009, or a showing made on or before such date that the conditional exchange right has become an absolute water right by reason of the completion of the appropriation.

DATED: July 16, 2003



Roger A. Klein  
Water Judge  
Water Division No. 1  
State of Colorado

Certified to be a full, true and correct copy of the original in my custody.

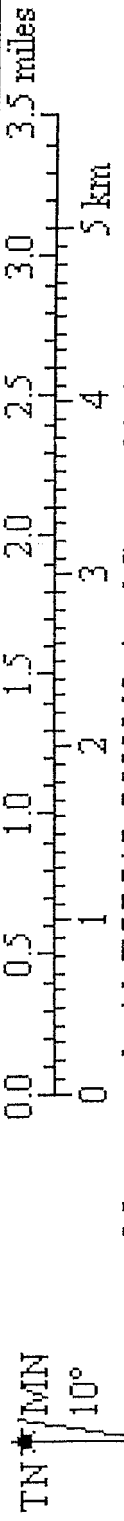
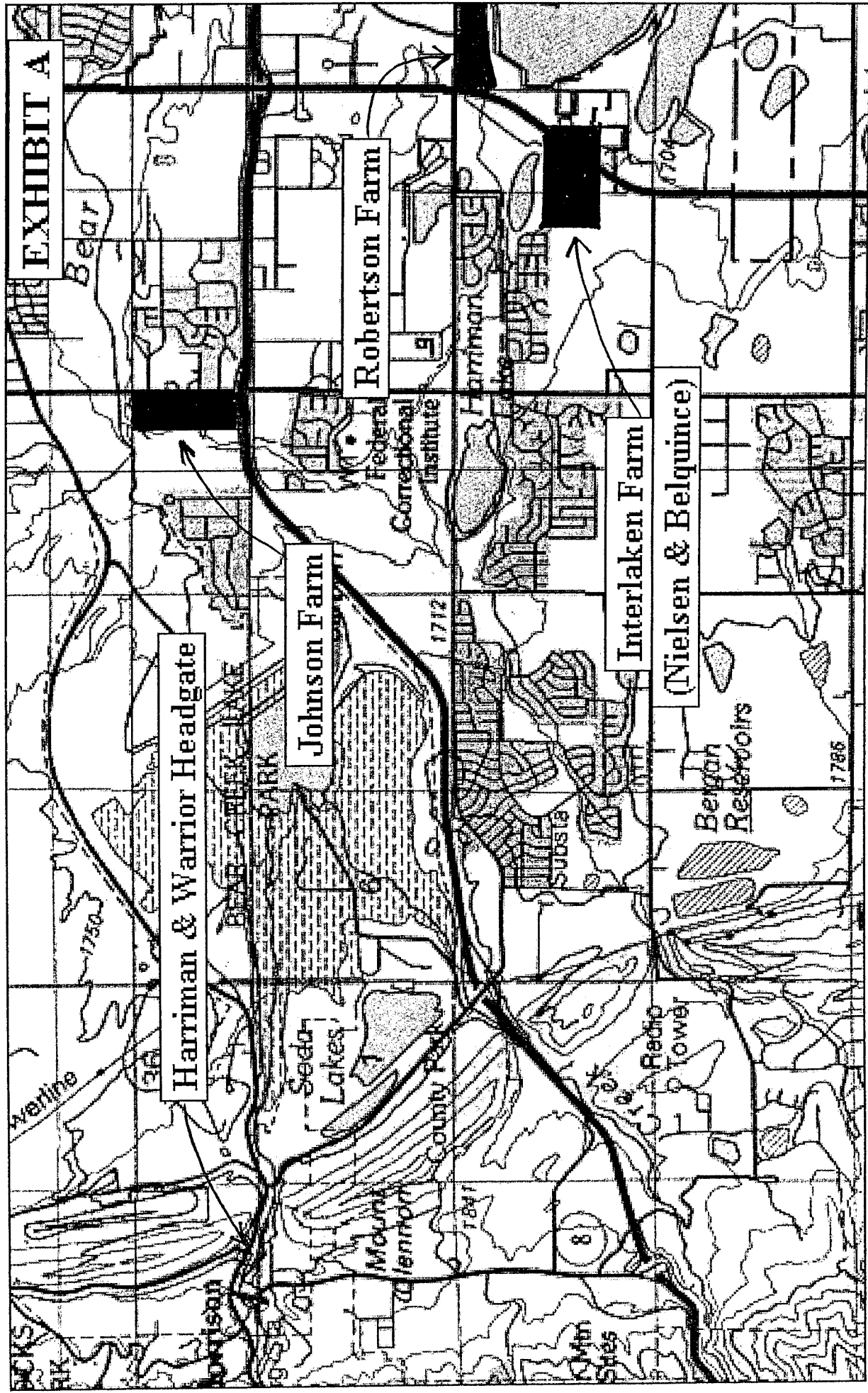
Dated JUL 28 2003

MARY M. BOHLENDER

Clerk of the District Court  
Weld County, Colorado

By Kathleen M. Mohr Deputy

LOCATION MAP FOR MMRC BEAR CREEK AUGMENTATION



Map created with TOPO!® ©2002 National Geographic ([www.nationalgeographic.com/topo](http://www.nationalgeographic.com/topo))

Exhibit "A"

**EXHIBIT B**  
**COMBINED FIRM YIELD MODEL**  
**WARRIOR DITCH, HARRIMAN DITCH, SODA LAKES, & MEADOWVIEW RES.**

The following is an explanation of the source of the values found in the columns of the table titled Combined Firm Yield of Warrior Ditch, Harriman Ditch, Soda Lakes, and Meadowview Reservoir. This table is based on 2.0 shares of Warrior Ditch, 7.71 shares of Harriman Ditch and 8.71 shares of Soda Lake. Any change of these values or the use of other outside storage will change the resultant Firm Yield. The model assumes the availability of 36.6 acre-feet of space in Soda Lakes and 49.3 acre-feet of space in Meadowview Reservoir. The table also assumes that annually 39.0 acre-feet of augmentation water is available and used for augmentation plans on Bear Creek and all of its tributaries except Turkey Creek and 23.8 acre-feet of augmentation water available and used on Turkey Creek.

Prior to implementing this model, another model was run to show the available exchange capability from the confluence of Bear Creek and Turkey Creek to Meadowview Reservoir and the potential location of wells within the Turkey Creek Drainage. This model covered the years of 1943 through 1953 when there were available daily stream gauge readings at the lower end of Turkey Creek. Included in that model were the historic diversion, potential diversions of rights senior to the exchange, and the Colorado Water Conservation Board proposed minimum stream flow. These daily results were totaled for each month of the study period and then entered in Column (Y) of this model.

**Monthly distribution of the augmentation water (%)**

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
7.6	7.6	7.6	7.6	9.2	9.2	9.6	9.6	9.2	7.6	7.6	7.6

**Diversion rates of the Harriman Ditch (cfs)**

Priority	Apr	May	Jun	Jul	Aug	Sep
23	.087	.117	.130	.078	.078	.081
25	.098	.171	.353	.257	.187	.213
Total	.185	.288	.483	.355	.265	.294

**Maximum ten year running average diversion quantities of Harriman Ditch (af)**

Priority	Apr	May	Jun	Jul	Aug	Sep	Total
23	16.5	41.8	52.8	20.9	16.5	13.5	162
25	13.2	47.3	126.5	110.0	52.8	26.4	330
Total	29.7	89.1	179.3	130.9	69.3	39.9	492

**Warrior Ditch diversion rate (cfs), time period, and maximum yearly diversions (af)**

Priority	Diversion rate	Time period	Yearly quantity
4	0.0809	May 1 – Oct 31	21.7
14	<u>0.0892</u>	Jun 1 – Aug 31	<u>8.7</u>
Total	0.1701		30.4

## Explanation of values in table columns

1. Cols C through F: Days the water rights are in priority for the month
2. Col G: Soda Lakes diversions to storage in priority for the month
3. Col H: MMRC's 2.18% share of Col G
4. Col I through L: Corresponding column C through F times corresponding diversion rate from above times 1.98.
5. Col M:  $(M^{-1})-(O)+(P)-(Q)+(R)+(V)-(W)+(X^{-1})-(Z)$
6. Col N: Estimated evaporation rate, subject to the results of a Soda Lakes Co. study. Evaporation and seepage assumed to be 15% per year; and is distributed throughout the year per the State Engineer's evaporation distribution prorata. Printout rounds the numbers.
7. Col O: (M) times (N)
8. Col P: Portion of (H) actually stored, manually determined.
9. Col Q: 40% of the total of previous six month of (P) released to Marston and Bear Creek for delayed return flows as requested from Denver Water Board and/or the District Water Commissioner.
10. Col R: Portion of (K) and (L) stored (manually determined)
11. Col S: Yearly Bear Creek replacement requirement (39.0 af) times monthly distribution ratios above.
12. Col T: Water replaced by Warrior water left in stream
13. Col U: Amount of replacement requirements not met with Warrior water  $(S) - (T)$
14. Col V: Warrior water stored in Soda Lakes (manually determined)
15. Col W: Water replaced by releases from Soda Lakes  $(S) - (T)$
16. Col X: Replacement requirements shorted by insufficient water in reservoirs or ditch rights,  $(M)-(O)+(P)-(Q)+(R)+(V)-(W)-(Z)$
17. Col Y: Turkey Creek potential exchange quantity.
18. Col Z: Quantity exchanged from Soda Lakes, Harriman Ditch and/or Warrior Ditch to Meadowview Reservoir (manually determined)
19. Col AA:  $(AA^{-1})+(Z)-(AC)-(AD)$
20. Col AB: Surface area of Meadowview per proposed construction drawings.
21. Col AC: Estimated evaporation rate based on State Engineer approved calculations and monthly distribution.
22. Col AD: (AB) times (AC)
23. Col AE: Yearly Turkey Creek replacement requirement (23.8 af) times monthly distribution ratios above.
24. Col AF: Warrior water available for the year
25. Col AG: Warrior water used for the year
26. Col AH: Harriman water used for the year
27. Col AI: Harriman water running ten year total. (Average looped from end of study period.)
28. Col AJ: Harriman water monthly running ten year total. (Average looped from end of study period.)



EXHIBIT B

COMBINED FIRM YIELD  
WARRIOR DITCH, HARRIMAN DITCH, SODA LAKES, & MEADOWVIEW RES.

WITH 39.0 AF REPLACEMENT FOR BEAR CREEK AND 23.8 AF FOR TURKEY CREEK  
Based on usable space of 35.6 AF in Soda Lakes and 49.3 AF in Meadowview Reservoir

	(B) (C) (D) (E) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z)			(AA) (AB) (AC) (AD) (AE) (AF) (AG) (AH) (AI) (AJ)																				
	WARRIOR #4		HARRIMAN #23		SODA #25		DAYS			WARRIOR #4		HARRIMAN #23		SODA #25		DAYS			WARRIOR #4		HARRIMAN #23		SODA #25	
MONTH	WARRIOR	HARRIMAN	HARRIMAN	HARRIMAN	HARRIMAN	HARRIMAN	HARRIMAN	WARRIOR	HARRIMAN	HARRIMAN	HARRIMAN	HARRIMAN	WARRIOR	HARRIMAN	HARRIMAN	WARRIOR	HARRIMAN	HARRIMAN	WARRIOR	HARRIMAN	HARRIMAN	WARRIOR	HARRIMAN	HARRIMAN
JAN	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
FEB	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MAR	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
APR	1.6	0.0	0.0	0.0	3.6	3.7	17.6	0.014	0.2	1.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MAY	0.0	5.0	0.0	0.0	3.2	4.1	18.4	0.019	0.3	0.6	7.3	7.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JUN	0.0	4.8	0.0	0.0	3.0	0.5	0.0	0.0	0.4	0.0	0.5	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JUL	0.0	5.0	0.0	0.0	2.5	0.0	0.0	0.0	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
AUG	0.0	5.0	0.0	0.0	1.8	0.0	0.0	0.0	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SEP	0.0	4.8	0.0	0.0	3.8	0.0	0.0	0.0	0.4	0.0	11.9	11.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
OCT	16	9.6	2.6	0.0	0.0	0.0	0.0	0.0	0.4	5.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
NOV	0.0	17.8	0.0	0.0	0.0	0.0	0.0	0.0	0.4	5.1	2.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
DEC	31	6.9	0.0	0.0	0.0	0.0	0.0	0.0	0.1	2.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JAN	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	1.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
FEB	0.0	1.5	0.0	0.0	0.0	0.0	0.0	0.0	0.1	1.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MAR	0.0	4.2	0.0	0.0	0.0	0.0	0.0	0.0	0.3	4.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
APR	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.4	4.2	2.3	6.4	6.8	6.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MAY	29	2.3	0.0	0.0	0.0	0.0	0.0	0.0	0.3	2.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JUN	0.0	4.6	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JUL	31	5.0	1.6	4.8	15.8	18.5	0.024	0.4	0.2	20.6	20.6	28.7	28.7	28.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
AUG	31	5.0	5.5	4.8	11.5	36.6	0.020	0.4	0.4	16.3	12.8	3.7	3.7	3.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SEP	30	4.8	0.0	0.0	12.7	36.6	0.017	0.6	0.6	17.5	2.7	3.6	3.6	3.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
OCT	14	0.0	2.2	0.0	0.0	0.0	0.0	0.4	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
NOV	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
DEC	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JAN	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
FEB	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MAR	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	5.5	5.5	5.5	5.5	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
APR	17	5.5	0.0	0.0	0.0	9.0	0.009	0.2	0.2	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MAY	30	2.7	0.0	0.0	2.1	2.9	0.014	0.1	0.1	7.3	7.3	11.9	11.9	11.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JUN	30	4.8	5.3	7.7	21.0	5.6	0.019	0.1	0.1	5.8	4.5	4.5	4.5	4.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
JUL	31	5.0	5.0	5.5	3.6	11.7	0.024	0.5	0.5	15.3	12.3	3.7	3.7	3.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
AUG	31	5.0	1.6	0.0	0.0	0.0	0.0	0.7	0.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SEP	30	4.8	0.0	0.0	0.0	35.8	0.017	0.6	0.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
OCT	31	5.0	0.0	0.0	0.0	36.0	0.011	0.4	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
NOV	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
DEC	0.0	0.0	0.0	0.0	0.0	27.0	0.002	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0







**EXHIBIT C**  
**TABULATION OF MMRC FIRM YIELD WATER**  
**IN PLANS FOR AUGMENTATION (PFA)**  
 June 2002

Plans for Augmentation Based on 39.0 Acre-Feet Yield for Bear Creek and 23.8 Acre-Feet for Turkey Creek

<u>Date of Application</u>	<u>Decree Date</u>	<u>Division 1 Case Number</u>	<u>Names of Applicants &amp; Development</u>	<u>Decree Or Application Amount In Acre-Feet Per Year</u>	
				<u>Bear Creek</u>	<u>Turkey Creek</u>
08/30/1994	08/20/96	94CW168	Idledale Water & Sanitation Dist.,	5.650	
09/30/1994	In Process	94CW290	Buffalo Park Development Co. Cragmont	3.140	
09/30/1994	In Process	94CW290	Buffalo Park Development Co. Mountain Homes	0.314 <sup>(a)</sup>	
09/30/1994	In Process	94CW290	Buffalo Park Development Co. Buffalo Meadows		2.070
09/30/1994	In Process	94CW290	Buffalo Park Development Co. Homestead		2.050
09/30/1994	In Process	94CW290	Buffalo Park Development Co. Sprucedale Reservoir	0.300	
09/30/1994	In Process	94CW290	Buffalo Park Development Co. Bear Mountain Vista		0.314 <sup>(a)</sup>
09/29/1995	07/08/96	95CW196	Colleen H. Karford		0.063
12/29/1995	10/20/97	95CW281	Black Mountain Ranch,	0.806	
12/29/1995	07/28/97	95CW291	Norman Meyer	1.000	
05/31/1996	07/14/97	96CW103	Giv Mattingly	0.934	
12/31/1996	03/05/98	96CW1046	Neta and Howard Wheeler		0.197
02/26/1997	01/22/98	97CW091	Smith Acres II, LLC.		0.188
10/29/1997	07/10/98	97CW280	Colleen H. Karford		0.031
10/29/1997	07/10/98	97CW281	Le Gault Sommet Reveleateurs, LLC		0.953
10/29/1997	07/10/98	97CW282	Boksmati & Fulaj, LLC		0.373
12/01/1997	10/09/98	97CW336	Ray A. and Sharon K. Petersburg	1.063	

**EXHIBIT C (Continued)**  
**TABULATION OF MMRC FIRM YIELD WATER**  
**IN PLANS FOR AUGMENTATION (PFA)**  
 June 2002

Plans for Augmentation Based on 39.0 Acre-Feet Yield for Bear Creek and 23.8 Acre-Feet for Turkey Creek

<u>Date of Application</u>	<u>Decree Date</u>	<u>Division 1 Case Number</u>	<u>Names of Applicants &amp; Development</u>	<u>Decree Or Application Amount In Acre-Feet Per Year</u>	
				<u>Bear Creek</u>	<u>Turkey Creek</u>
12/01/1997	10/01/98	97CW337	James Martin/William Shirky	0.084	
12/01/1997	10/20/98	97CW338	Trilogy Conifer, LLC		1.399
12/30/1997	10/20/98	97CW372	Gregory and Eva L. White		0.408
03/31/1998	03/17/99	98CW240	Eisenbud Family	1.394	
03/31/1998	03/23/99	98CW241	Allyn Breech	0.246	
06/30/1998	In Process	98CW291	David J. Figuli		0.377
06/30/1998	In Process	98CW292	Conifer Corners, LLC		1.400
07/30/1998	06/17/99	98CW310	Scott E. Sabina	0.253	
07/30/1998	06/11/99	98CW311	Mystic Ridge, LLC	0.386	
12/30/1998	In Process	98CW451	G. Andrew Toth	0.000 <sup>(b)</sup>	
03/31/1999	In Process	99CW035	Mark P. & Kim R. Meyer		0.031
06/30/1999	In Process	99CW096	Scott A. Wilson	1.051	
07/30/1999	In Process	99CW108	Randolph Capital Corp.	0.000 <sup>(b)</sup>	
09/30/1999	In Process	99CW122	John P. Gold & Nicola B. Gold	0.198	
10/30/1999	In Process	99CW171	Byron C. & Ruth M. Angevine	0.220	
12/27/1999	In Process	99CW212	Jami Jensen	<u>0.621</u>	_____

**EXHIBIT C (Continued)**  
**TABULATION OF MMRC FIRM YIELD WATER**  
**IN PLANS FOR AUGMENTATION (PFA)**  
 June 2002

Plans for Augmentation Based on 39.0 Acre-Feet Yield for Bear Creek and 23.8 Acre-Feet for Turkey Creek

	<u>Bear Creek</u>	<u>Turkey Creek</u>
TOTAL OF CURRENT (June 2002) OBLIGATIONS TO PLANS FOR AUGMENTATION	17.660	9.540
SURPLUS AVAILABLE FOR FUTURE PLANS FROM 39.0 ACRE-FEET FOR BEAR CREEK AND 23.8 FOR TURKEY CREEK	21.340	14.260

- (a) The total yield for Mountain Homes and Bear Mountain Vista will not exceed 0.314 of an acre-foot.  
 (b) Applications dismissed April 19, 2002





## EXHIBIT D MOUNTAIN MUTUAL RESERVOIR COMPANY MEADOWVIEW WATER BALANCE

Year of Nov 1 \_\_\_\_\_ to Oct 31 \_\_\_\_\_

Date	Soda Lakes Inflow Priority		Harriman Ditch Priority No. 23 Inflow		Harriman Ditch Priority No. 25 Inflow		Total To Storage (AF)							
	Date Began	Date Ended	No. Days	Rate in CFS-Days	Date Began	Date Ended		No. Days	Rate in CFS-Days					
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
Nov														
Dec														
Jan														
Feb														
Mar														
Apr														
May														
Jun														
Jul														
Aug														
Sep														
Oct														

Date	Warrior Ditch Priority No. 4 Inflow		Warrior Ditch Priority No. 14 Inflow		Meadowview Priority Inflow		Total To Storage (AF)									
	Date Began	Date Ended	No. Days	Rate in CFS-Days	Date Began	Date Ended		No. Days	Rate in CFS-Days							
(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)*
Nov																
Dec																
Jan																
Feb																
Mar																
Apr																
May																
Jun																
Jul																
Aug																
Sep																
Oct																

\* (6)+(11)+(16)+(22)+(27)+(32)

EXHIBIT D

MOUNTAIN MUTUAL RESERVOIR COMPANY  
MEADOWVIEW WATER BALANCE

Year of Nov 1 \_\_\_\_\_ to Oct 31 \_\_\_\_\_  
(All amounts in acre-feet except as noted)

(A) Month	(B) EOM Tot *	(C) Surface Area (Ac)	(D) Evap Rate (Ft)	(E) Tot Evap (C)X(D)	(F) Harriman Ditch Inflow Priority #23	(G) Warrior Ditch Inflow Priority #4	(H) Priority #14	(I) Soda Lakes Priority Inflow	(J) Meadowview Priority Inflow	(K) Release For Augmentation	(L) Release For Augmentation
November			0.0								
December			0.0								
January			0.1								
February			0.1								
March			0.2								
April			0.3								
May			0.3								
June			0.2								
July			0.2								
August			0.2								
September			0.1								
October			0.0								
Total	-----		-----								

\* B<sup>1</sup> - E + F + G + H + I + J + K - L



**EXHIBIT D**  
**MOUNTAIN MUTUAL RESERVOIR COMPANY**  
**SODA LAKES WATER BALANCE**

Year of Nov 1 \_\_\_\_\_ to Oct 31 \_\_\_\_\_

(All amounts in acre-feet except as noted)

(A) Month	(B) EOM Tot *	(C) Tot Evap and Seepage	(D) Harriman Ditch Inflow Priority #23	(E) Priority #25	(F) Warrior Ditch Inflow Priority #4	(G) Priority #14	(H) Soda Lake Inflow	(I) Release To Marston Res	(J) Release To Bear Creek	(K) Release For Augmentation	(L) Release For Exchange
November											
December											
January											
February											
March											
April											
May											
June											
July											
August											
September											
October											
Total	----- --										

\* B<sup>1</sup> - C + D + E + F + G + H + I + J + K + L