

2. Purpose of Application

The Application seeks to amend the plan for augmentation and changes of water rights in Consolidated Case Nos. 90CW215 and 91CW47 (“the Consolidated Decree”). It also seeks an appropriative right of exchange to store excess water available through a Coors Brewing Company (“Coors”) lease in the Magic Mountain Reservoir associated with Martin Marietta’s Specification Aggregate Quarry (“Spec Agg Quarry”) located outside of Golden, Colorado and in the quarry pit located on the Spec Agg Quarry (“Spec Agg Pit”). The Spec Agg Pit is excavated into bedrock and is mostly comprised of quartz and granite.

The augmentation plan under the Consolidated Decree provided for the augmentation of existing and proposed future depletions at four facilities owned by the then-applicant Western Mobile, Inc., namely: i) its Corporate Office, including Gordon Lake; ii) anticipated irrigation uses at the Lowell Pit site; iii) depletions occurring at the Spec Agg Quarry, referred to as the “Golden Quarry” in the Consolidated Decree; and iv) tributary wells to supply water for domestic, irrigation and amusement pond uses at the Heritage Square amusement park and retail shopping facilities. The locations of these facilities are depicted on the map attached as **Figure 1**.

The Consolidated Decree changed and quantified the historical use and consumptive use for certain shares of irrigation water rights for the Fisher Ditch, Kershaw Ditch and Manhart Ditch (the “Changed Water Rights”), located on Clear Creek and Ralston Creek, to allow their use for multiple purposes, including in the plan for augmentation. The Consolidated Decree also adjudicated exchanges from the historical diversion locations of those ditches to the Magic Mountain Reservoir and the sources of supply of the Spec Agg Quarry. Except as stated herein, the Application does not seek to alter, amend or change in any way the terms and conditions, change of use and quantification of augmentation water adjudicated by the Consolidated Decree or the exchanges established thereby.

The Application does seek to amend the plan for augmentation as follows:

- add up to 200 acre feet of water per year pursuant to a Water Lease Agreement with the Coors Brewing Company as a source of augmentation water;
- provide that the Applicant can include future additional sources of augmentation water upon notice to the Division Engineer and the opposers in this case;
- quantify and provide for the exchange and storage of additional water supplies to meet the demands at the Spec Agg Quarry that have increased since the entry of the Consolidated Decree;
- eliminate from the augmentation plan projected future uses of water at the Lowell Pit, which Martin Marietta does not own and for which it claims it is not responsible;

- eliminate from the augmentation plan depletions associated with the “Corporate Office,” including Gordon Lake and a future concrete batch plant, which are not owned by the Applicant and for which Applicant claims it is not responsible; and
- add to the augmentation plan depletions of water occurring at the Applicant’s Fenton Concrete Plant.

The Application also seeks to add the Coors Lease water as an additional source of return flow replacement for the Changed Water Rights. It further seeks to add the Spec Agg Pit as a place of storage, both under its own new junior priority and as an alternate place of storage for Magic Mountain Reservoir, to add the Spec Agg Pit as an exchange-to point for the exchanges in the Consolidated Decree and to add a new point of diversion and alternate point of diversion on Lena Gulch to deliver water into Magic Mountain Reservoir and Spec Agg Pit.

3. Procedural History

Martin Marietta filed the original application in this matter on May 31, 2013. Notice of that application was duly published in accordance with C.R.S. § 37-92-302. Copies of the Application were separately provided by certified mail to Hyland Hills Park and Recreation District (“Hyland Hills”) and Digby Family LLLP. On August 30, 2013, the Division Engineer for Water Division No. 1 issued his Report of the Division Engineer, to which Martin Marietta responded on November 12, 2013.

On October 30, 2015, the Court granted Applicant’s unopposed motion to amend and accepted for filing the First Amended Application, notice of which was duly published in accordance with C.R.S. § 37-92-302, and mailed by certified mail to Hyland Hills and Digby Family LLLP.

The Court has jurisdiction over the subject matter of these proceedings and over all who have standing to appear as parties, whether they have appeared or not.

4. Statements of Opposition.

The following parties filed timely statements of opposition to the original application: City of Arvada; Consolidated Mutual Water Company; Coors Brewing Company; Farmers Reservoir & Irrigation Company (“FRICO”); Hyland Hills; City of Northglenn; Public Service Company of Colorado; City of Thornton; City of Westminster; and State and Division Engineers. No other statements of opposition were filed, and the time for filing such statements has expired. No additional statements of opposition were filed to the First Amended Application.

5. Stipulations

The following opposers have stipulated to the entry of this Decree or earlier versions of this Decree that were no less restrictive upon Applicant than this Decree. The Court has approved the following stipulations:

- a) Consolidated Mutual Water Company, approved by Court Order February 25, 2016
- b) City of Westminster, approved by Court Order on March 2, 2016.
- c) Coors Brewing Company, approved by Court Order on March 7, 2016.
- d) City of Northglenn, approved by Court Order on March 7, 2016.
- e) City of Arvada, approved by Court Order on April 19, 2016.
- f) Public Service Company of Colorado, approved by Court Order on April 25, 2016.
- g) Colorado State Engineer and Division Engineer for Water Division 1, approved by Court Order on May 3, 2016.
- h) City of Thornton, approved by Court Order on May 4, 2016.
- i) The Farmers Reservoir and Irrigation Company on May 13, 2016.
- j) Hyland Hills Park and Recreation District on May 19, 2016.

6. Amendment to Plan for Augmentation

6.1 Original Structures to be Augmented:

Under the Consolidated Decree, the plan for augmentation was designed to augment stream depletions from the following uses by Western Mobile, which are depicted on the attached Figure 1:

6.1.1 Western Mobile's Corporate Office, which is located in portions of Sections 3, 4, 9 and 10, T.3S., R.68W., of the 6th P.M. near Pecos Street and West 64th Avenue. The uses for which augmentation water was being provided included the replacement of evaporation from Gordon Lake, future landscape irrigation and a future concrete batch plant.

6.1.2 The Lowell Pit site, which is located in the SE ¼ of Section 7, T.3S., R.68W., of the 6th P.M. The plan provided for the augmentation of assumed depletions from the future irrigation of 5.5 acres in the vicinity of the Lowell Pit which was being back-filled as part of reclamation.

6.1.3 The Golden Quarry, a/k/a Spec Agg Quarry, which is located in the N ½ Section 15, and the S ½ SE ¼ Section 10, T.4S., R.70W., of the 6th P.M. The Consolidated Decree augmented the use of water at the Spec Agg Quarry for dust suppression and evaporation from a small sediment pond, and from a projected future washed-aggregate processing facility.

6.1.4 Heritage Square, a commercial shopping and amusement park facility, which is located in the N ½ of Section 15 and the S ½ of Section 10, T.4S., R.70W., of the 6th P.M. As stated in the Consolidated Decree, five tributary wells on the property provided water to irrigate turf grass and landscaping, fill two small water ponds and supply drinking and sanitary water. Included within the Heritage Square property under the Consolidated Decree is the Magic Mountain Reservoir, which the Consolidated Decree recites was intended to be enlarged, and Magic Mountain Reservoir was in fact decreed to an enlarged capacity of 147 acre-feet in Case No. 99CW093. The Consolidated Decree allocated augmentation water to replace evaporation from the Magic Mountain Dam and Reservoir.

6.1.5 The water requirements of these existing and projected uses were estimated in a table presented at page 13 of the Consolidated Decree as 117.2 acre feet per year. Of that amount, 102.3 acre feet of water per year were projected to be depleted. See pp. 13-15 of Consolidated Decree.

6.1.6 The date of appropriation for the storage water rights, and exchanges in the Consolidated Decree is December 28, 1990.

6.2 Amendment to Structures to be Augmented

By this Application, Martin Marietta, the successor in interest to the Spec Agg Quarry, Heritage Square, the Changed Water Rights and the Consolidated Decree, seeks to amend the structures for which augmentation under the Consolidated Decree is provided, as follows:

6.2.1 Spec Agg Facility/Magic Mountain Reservoir and Spec Agg Pit

Martin Marietta will continue to use water stored in Magic Mountain Reservoir for industrial uses at the Spec Agg Quarry and to replace water used at its Spec Agg Quarry as provided for in the Consolidated Decree. It will also store water in the Spec Agg Pit for these purposes. Depletions at the Spec Agg Quarry include net evaporation from Magic Mountain Reservoir and the Spec Agg Pit and from the exposed surface area of several sediment retention ponds, as well as operational losses from dust control and concrete batching and other industrial uses associated with the property. Evaporation losses from the exposed water surface area of the ponds at the Spec Agg Quarry, Spec Agg Pit and Magic Mountain Reservoir shall be calculated

daily by multiplying the exposed surface area (measured at least weekly and interpolated to daily values) by the rate of evaporation. Total net evaporation is equal to 2.45 ac-ft/acre per year pursuant to Consolidated Decree. The monthly distribution of total annual evaporation will be based upon the SB-120 guidelines for elevations below 6,500 feet. Applicant will determine daily evaporation rates by dividing the monthly evaporation rates identified in the table below by the number of days in each month. These daily rates will be applied to the exposed water surface area of the ponds at the Spec Agg Quarry to calculate monthly volumes of evaporation in the future. The monthly evaporation volume will be distributed on a daily basis throughout each month.

	SB-120 Monthly Distribution (%)	Evaporation Rate (ac-ft/acre)
Month	[1]	[2]
Nov	4.0%	0.10
Dec	3.0%	0.07
Jan	3.0%	0.07
Feb	3.5%	0.09
Mar	5.5%	0.13
Apr	9.0%	0.22
May	12.0%	0.29
Jun	14.5%	0.36
Jul	15.0%	0.37
Aug	13.5%	0.33
Sep	10.0%	0.25
Oct	7.0%	0.17
Total	100.0%	2.45

Applicant shall also measure the actual diversion of water for the industrial uses at the Quarry. For purposes of determining depletions, it will be assumed that those uses are 100% consumptive. Applicant's estimates of current and anticipated stream depletions resulting from the use of water at the Spec Agg Quarry are reflected on the attached **Table 1**. Those figures constitute current estimates, but augmentation obligations will be based on actual depletions determined as provided in this Decree.

6.2.2 The Lowell Pit Site

The Lowell Pit site is now owned by Hyland Hills. None of the irrigation proximate to the Lowell Pit projected in the Consolidated Decree that would have resulted in out-of-priority depletions has occurred. Martin Marietta seeks to amend the augmentation plan to remove the Lowell Pit site from the augmentation plan under the Consolidated Decree. No water has been

or may be pumped from the Lowell Pit pursuant to the Consolidated Decree or this Decree. Nothing in this Decree relieves the current owners of the Lowell Pit site from obligations, if any, for augmenting out-of-priority depletions from uses of water on that property.

6.2.3 The Corporate Office

Applicant does not own what was formerly Western Mobile's Corporate Office, including Gordon Lake. Martin Marietta is not storing water in Gordon Lake or using that water for landscape irrigation. Neither is Martin Marietta conducting operations at a batch plant using water from Gordon Lake as projected in the Consolidated Decree. The Corporate Office, including Gordon Lake, is owned by Digby Family, LLLP. Under these circumstances, Martin Marietta has no obligation to augment water uses or any out-of-priority depletions that may be occurring at the former Corporate Office as a result of activities or conduct by the current owner. Martin Marietta seeks to amend the augmentation plan to remove the Corporate Office from the augmentation plan under the Consolidated Decree. No pumping, storage of water, or out-of-priority depletions from Gordon Lake are authorized pursuant to the Consolidated Decree or this Decree. Nothing in this Decree relieves the current owners of the Corporate Office site from obligations, if any, for augmenting out-of-priority depletions from uses of water on that property.

6.2.4 Heritage Square

In the Consolidated Decree, the plan for augmentation replaced out-of-priority depletions from five tributary wells providing water for commercial and domestic uses, landscape irrigation and two amusement ponds at the Heritage Square entertainment park. The Consolidated Decree included depletions at Heritage Square with the replacement of evaporation from Magic Mountain Reservoir, which is covered under the Spec Agg Quarry above. The scope of the current uses of water at Heritage Square is consistent with that contemplated under the Consolidated Decree and therefore the Applicant does not seek any amendment of the Consolidated Decree with regard to augmentation of water use at Heritage Square. However, the tributary wells have not been used for at least ten years and all of the commercial and domestic uses at Heritage Square are currently supplied by potable water from the City of Golden. No augmentation of that water use is required under this Decree. To the extent the five tributary wells at Heritage Square described in the Consolidated Decree are used in the future for these purposes, Applicant will account for its water use and depletions in accordance with the Consolidated Decree. The accounting form under this Decree will be amended as provided in Paragraph 26.1.1 to include depletions from those wells, including lagging factors, and total well pumping will be consistent with the amounts contemplated in Paragraphs 18(a) through (c) of the Consolidated Decree.

6.2.5 Fenton Concrete Plant Operation

Martin Marietta seeks to add to its plan for augmentation out-of-priority water depletions due to withdrawals from the Fenton Pit for concrete batch plant operations at the Fenton Plant as depicted on the attached Figure 1.

(a) Amount: Approximately 26.42 acre-feet per year. Actual amounts shall be calculated as provided in this Decree. Estimated lagged depletions at the Fenton Plant are summarized on Table 1 and are comprised of water pumped from the unlined, pre-1981 Fenton Pit for concrete production, dust suppression, and related uses at this site.

(b) Source of water: ground water tributary to Clear Creek, tributary to the South Platte River.

(c) Uses: Industrial, including concrete production and dust suppression.

(d) Location of Fenton Plant and Pit: The Fenton Plant and Pit are located in the NE 1/4 of Section 13, T 3 S, R 69 W, 6th P.M. The street address for this property is 5400 Fenton Street, Arvada, CO 80002.

(e) Appropriation Date: March 31, 2013.

6.2.6 Estimated Depletions

As reflected on Table 1, estimates of the total annual stream depletions resulting from current and future operations at the facilities described in Paragraphs 6.2.1, 6.2.4 and 6.2.5 will not exceed 200 acre feet, with 150.66 acre feet of depletions occurring during the irrigation season (April-October) and 46.73 acre feet of depletions occurring during the non-irrigation season (November-March). The Court finds that these estimates are reasonable, that augmentation obligations will be based on actual depletions, and that replacement of depletions resulting from uses associated with these facilities shall be replaced in time, place and amount.

6.3 Water Rights To Be Used For Augmentation and Replacement

Applicant will measure water use and replace actual out-of-priority depletions from the facilities described in Paragraphs 6.2.1, 6.2.4 and 6.2.5. The industrial uses will be assumed to be 100% consumptive. The Changed Water Rights will continue to be used for augmentation and exchange during the irrigation season as adjudicated in the Consolidated Decree. Pursuant to the Consolidated Decree, depletions during the non-irrigation season were to be replaced by releases from Magic Mountain Reservoir and Gordon Lake. The Applicant proposes to amend the augmentation plan by deleting Gordon Lake as a source of augmentation water and by adding the sources of augmentation described below.

6.3.1 Coors Leases

(a) Depletions currently occurring during the non-irrigation season are replaced with up to 101.7 acre feet of water per year available under the March 22, 2007 Water Lease Agreement with Coors. Beginning in October, 2016, depletions will be replaced with up to 200 acre feet of water per year under the renewed Water Lease Agreement with Coors, dated

February 29, 2016 (the “Renewed Coors Lease”). Applicant will not increase depletions beyond those supported by the existing Coors Lease until such time as the Renewed Coors Lease is effective. This source of replacement water is not permanent, and the availability of this water is subject to all terms and conditions of the Coors leases. Martin Marietta’s right to use water under the Coors leases shall terminate contemporaneously with the expiration or termination of the Coors leases. Water under the current Coors Lease is delivered from October 1 through June 1. Water under the Renewed Coors Lease will be delivered year round in a manner consistent with the so-called “Cosmic Agreement” of May 23, 1988, between Coors, the City of Golden, the City of Thornton, and the City of Westminster. The water is measured by Coors and then released into Clear Creek at a point between McIntyre Street and Interstate 70, which is located approximately 3 miles upstream from the confluence of Clear Creek and Lena Gulch, as depicted on the attached Figure 1. The water released by Coors is subject to transit losses between the point of delivery and the point of depletion on Clear Creek, as assessed by the Division Engineer. The Renewed Coors Lease expires September 30, 2026, but may be terminated under certain circumstances by Coors and/or Applicant upon notice as described in paragraphs 5 and 14. Applicant shall provide notice no later than: (a) 120 days prior to the date that the Renewed Coors Lease will expire pursuant to Paragraph 1 of the Renewed Coors Lease; (b) 120 days prior to the date that the Renewed Coors Lease will terminate, if pursuant to Paragraph 14(a) of the Lease; (c) 10 days prior to the date that the Renewed Coors Lease will terminate, if pursuant to Paragraphs 5 and 14(c) of the Lease; or (d) 10 days after the date that the Renewed Coors Lease terminated, if pursuant to Paragraph 14(b) of the Lease. If an extension or renewal has been executed, then such extension or renewal shall be attached to the notice. Unless an extension or renewal has been executed, such notice shall include a one-year projection analysis. Applicant shall subsequently file an updated projection analysis on an annual basis no later than July 1 of each year until a new source of augmentation water is obtained. The projection will include the following information: (1) any lagged out-of-priority depletions from the Fenton Pit and winter return flows that may be out-of-priority during the next projection period; (2) the amount of anticipated future depletions calculated in accordance with the terms of this Decree; (3) the amount of replacement supplies reserved for augmentation and replacement during the projection year; (4) the amount of stored water reserved for augmentation and replacement during the projection year; (5) any remaining amounts available for Applicant’s use under this Decree; and (6) any other pertinent information from Paragraph 26.1.2 of this Decree.

Applicant will curtail its diversions in an amount not to exceed the maximum amount authorized under the Consolidated Decree unless Applicant obtains an alternative augmentation supply as described in Paragraph 6.4.3 of this Decree.

(b) Coors Decrees for Leased Water. The replacement supplies provided under the Coors leases are described in the decrees entered in Consolidated Case Nos. W-8036(75) and W-8265(47), and Case Nos. 89CW234, 99CW236, and 96CW1117. The water supplied under the Coors leases must be consistent with the Court’s August 27, 2015 Order on Rule 56(h) motions and may include transbasin, nontributary, and other sources expressly decreed as

reusable; this water is fully consumable and may be used to supply Martin Marietta's augmentation needs under this Decree. Nothing in this Decree precludes Applicant or Coors from appealing that order, and the corresponding limitation on Coors's use of water under those decrees, nor does it preclude Coors from seeking to change or amend its water rights decrees to allow Coors's fully consumable effluent derived from native sources pursuant to its plans for augmentation to be reused, successively used, leased or conveyed to third parties, including Applicant, for augmentation purposes. To the extent such an appeal or a decree changing or amending the Coors water rights decrees allows additional fully-consumable effluent under the Coors decrees to be used as augmentation water under the Coors leases, the restrictions of the Court's 56(h) Order shall no longer apply to this Decree.

(c) To the extent any augmentation water or water to be used by exchange furnished by Coors to Martin Marietta includes water delivered by Thornton to Coors pursuant to existing agreements between the Adolph Coors Company and the City of Thornton (as amended) and between the City of Golden and Adolph Coors Company (both dated May 23, 1988 and the subject of the decree in Case No. 96CW1117), Coors's disposition or assignment of such water to Martin Marietta is subject to the terms of said agreements and decree.

6.3.2 Spec Agg Pit. Water stored in the Spec Agg Pit will be used for augmentation and replacement. The water released from the Spec Agg Pit is subject to transit losses between the point of release and the point of depletion on Clear Creek, as assessed by the Division Engineer.

6.3.3 Additional Sources

Martin Marietta also seeks to add additional sources of replacement water that it may acquire or lease at a later date. In the event that Martin Marietta acquires additional water rights, such additional sources may be added pursuant to the procedures described in Paragraph 6.4.3 below.

6.4 Operation of Amended Plan for Augmentation

6.4.1 Irrigation season depletions will be replaced as provided by the augmentation plan in the Consolidated Decree, by relinquishing water under the Changed Water Rights. As provided in the Consolidated Decree, excess consumptive use credits are stored in Magic Mountain Reservoir by exchange. Out-of-priority depletions associated with evaporation and operational losses will be replaced under the Consolidated Decree, through releases of water stored in Magic Mountain Reservoir in priority or pursuant to the ditch exchanges in the Consolidated Decree.

6.4.2 In addition to the operations described in Paragraph 6.4.1, this amendment allows Martin Marietta to exchange water under the Coors leases into the Spec Agg Pit and Magic Mountain Reservoir to augment out-of-priority depletions and to replace irrigation return flows associated with the Changed Water Rights.

6.4.3 Additional Supplies of Augmentation/Replacement Water. Pursuant to C.R.S. §37-92-305(8)(c), the Court may authorize Applicant to use additional or alternative sources of augmentation water for replacement in this augmentation plan, including water leased by Applicant, if such sources are part of a substitute water supply plan approved pursuant to C.R.S. §37-92-308 or if such sources are decreed for such replacement use. The following paragraphs set forth the procedure under which these sources may be added to this plan for augmentation.

(a) Additional Water Rights Separately Decreed for Augmentation Use. If a surface or groundwater right is decreed or lawfully available for augmentation use and not already approved for such use under this decree, Applicant shall file with the Court and serve on the Division Engineer and the opposers at least 63 days advance written Notice of Use of Water Right for Augmentation which shall describe: 1) the water right by name and decree, if any; 2) the annual and monthly amount of water available to Applicant from the water right; 3) the location or locations at which the water will be delivered to the stream; 4) whether or not the source of water includes, or is derived in whole or in part from, effluent discharged to Clear Creek or its tributaries at a point upstream of the Croke Canal headgate on Clear Creek; 5) evidence that the claimed amount of water is not and will not be used by any other person; 6) the manner in which Applicant will account for use of the augmentation water; and 7) information regarding how the additional water rights will be projected and analysis regarding whether revisions to the projection are required. If any party, or the Division Engineer, wishes to object to the addition of the noticed water rights to this plan for augmentation, a written objection shall be filed with the Court within 63 days after the date the Notice was filed and served by Applicant. If no objection is so filed, then Applicant may use the noticed water rights in this plan in the manner stated in this Decree, without further action by the Court. If an objection is filed, then Applicant may not use the noticed water rights until the Court determines that the water rights may be used in this plan for augmentation and, if so, the Court may impose such terms and conditions as necessary to prevent injury to vested water rights and decreed conditional water rights. Applicant shall have the burden of proving no injury to vested water rights resulting from the proposed use of the noticed water rights, including, but not limited to, compliance with the water quality requirements of C.R.S. § 37-92-305(5). If the Notice requested temporary use of the noticed water rights in this plan for augmentation for a period not to exceed one year, then the Court shall grant an expedited hearing and promptly decide the disputed issues. If the Notice requested use for more than one year or permanent use of the noticed water rights in this plan for augmentation, then the Court shall conduct whatever proceedings are needed to appropriately address and resolve the disputed issues. This paragraph shall apply to all separately decreed sources, whether they are permanent additions to this plan for augmentation or of limited duration.

(b) Other Additional Water Rights. If a water right is not decreed or otherwise lawfully available for augmentation use, Applicant may seek approval to use the water right as a supplemental source of augmentation water pursuant C.R.S. §37-92-308 or successor statutes, and Applicant may file an application to amend this Decree to include such source as a

supplemental source of augmentation water under this Decree upon notice to the opposers to this action. Such application shall describe: 1) the water right by name and decree, if any; 2) the annual and monthly amount of water available to Applicant from the water right; 3) the location or locations at which the water will be delivered to the stream; 4) whether or not the source of water includes, or is derived in whole or in part from, effluent discharged to Clear Creek or its tributaries at a point upstream of the Croke Canal headgate on Clear Creek; 5) evidence that the claimed amount of water is not and will not be used by any other person; 6) the manner in which Applicant will account for use of the augmentation water; and 7) information regarding how the additional water rights will be projected and analysis regarding whether revisions to the projection are required.

(c) **Retained Jurisdiction Over Additional Augmentation and Replacement Sources.** The Court retains perpetual jurisdiction over the plan for augmentation approved herein for the purposes of any objections filed pursuant to Paragraph 6.4.3(a) and 6.4.3(b) to resolve any disputes, objections or appeals, including, but not limited to, claims of injury, that relate to Applicant's use or proposed use of the water rights or replacement sources described in said paragraphs.

6.4.4 Augmentation Plan Water Balance

(a) As reflected in **Table 2**, the total available supplies of augmentation water under the Changed Water Rights and the Renewed Coors Lease equal approximately 354 acre feet per year, with approximately 154 acre feet available during the irrigation season from the Changed Water Rights and up to 200 acre feet available under the Coors Lease. Water stored in Magic Mountain Reservoir, up to its decreed capacity of 147 acre feet, and in Spec Agg Pit, up to its decreed capacity of 320 acre feet, are also available to satisfy augmentation and return flow obligations. Table 2 reflects a total augmentation obligation of approximately 249 acre feet per year, consisting of approximately 197 acre feet per year for Martin Marietta's operational depletions and approximately 52 acre feet per year of historical irrigation return flows associated with the Changed Water Rights. Table 2 also shows the available replacement supplies and the overall plan for augmentation water balance and the amounts remaining for exchange to storage.

(b) As shown on Table 2, Martin Marietta has adequate water available to meet its current and anticipated future water use demands and augmentation and return flow obligations under this amended plan. Operation of this amended plan for augmentation, on the terms and conditions of this Decree, will not injure any vested absolute water rights or decreed conditional water rights. Martin Marietta retains the right to use or transfer any excess augmentation credits or excess replacement supplies not needed to satisfy its augmentation and return flow obligations, subject to any necessary Water Court or State Engineer approvals.

6.4.5 The delivery of water under the Coors leases shall replace out-of-priority depletions with respect to valid calls, including exchanges, senior to May 31, 2013, the date of

filing of the original application. In addition, Applicant is entitled to store by exchange and use any portion of the Changed Water Rights, pursuant to the exchange decreed in the Consolidated Decree.

6.4.6 Martin Marietta will continuously evaluate the amount of water available to replace projected out-of-priority depletions and return flow requirements. If at any time actual or anticipated depletions exceed the amount of replacement water supplies, then Martin Marietta shall either identify and secure additional supplies for the plan, such as obtaining additional potable water available at the site through a contract with the City of Golden, or curtail all out-of-priority diversions and depletions until Martin Marietta identifies sufficient replacement supplies to replace all out-of-priority depletions in time, location and amount as required by the terms and conditions of this Decree.

6.4.7 In order for Applicant to rely upon the leased water for augmentation or replacement purposes, the contract water provider(s) must record and report to the Division of Water Resources the time, place, and amount of legally available sources of water delivered under such contract(s). Applicant will include this information in its accounting, which it will submit to the Division of Water Resources.

7. Amendment to Change of Water Rights to Add Additional Source of Non-Irrigation Season Return Flows

7.1 Summary of Change of Water Rights in Consolidated Decree. The Consolidated Decree changed Applicant's water rights for the Fisher Ditch, Kershaw Ditch and Manhart Ditch from direct irrigation use to include direct flow and storage for multiple purposes. Consolidated Decree, ¶¶30, 47. The historical annual stream depletions for the Changed Water Rights were quantified at 154.13 acre feet. Consolidated Decree, ¶25. With non-irrigation return flow obligations of 51.79 acre feet per year, Consolidated Decree, ¶¶26, 30, the annual consumptive use portion of the Changed Water Rights available for augmentation equals 102.34 acre feet, subject to the limitations of the Consolidated Decree ¶55. Consolidated Decree, ¶¶30, 51, 55. The Changed Water Rights have been used continuously for the Consolidated Decree purposes since entry of the Consolidated Decree, and none of these elements of the Changed Water Rights as established in the Consolidated Decree are altered or amended by this Decree.

7.1.1 Applicant has demonstrated and provided notice through this proceeding that the land historically irrigated with its shares in the Manhart Ditch Company has been removed from irrigation and has satisfied the condition of paragraph 48 of the Consolidated Decree. Exhibit A to the Consolidated Decree depicts the lands historically irrigated with shares in the Manhart Ditch (as well as Fisher and Kershaw Ditches). **Figure 3** attached hereto depicts the lands from which Applicant's 10 Manhart Ditch shares have been removed from irrigation. Those lands comprise 4.3 acres now owned by Hyland Hills, and encompass the Lowell Pit and surrounding areas that are not and have not been irrigated with Manhart shares or otherwise. Notwithstanding that these acres have been removed from irrigation, Hyland Hills intends in the future to irrigate these lands as part of a regional park and nothing in this Decree precludes Hyland

Hills from irrigating those lands with water approved in a substitute water supply plan or water rights decree, with nontributary groundwater, or with water from a municipal or district water provider.

7.2 Amendment to Change of Water Rights. The Application seeks to amend the changes of water rights in the Consolidated Decree by providing a supplemental source of replacement water for out-of-priority non-irrigation season historical irrigation return flows. As provided in the Consolidated Decree, p. 21, ¶ 26, historical non-irrigation season return flows from the Changed Water Rights that are required to be replaced when out-of-priority equal 51.79 acre feet. Monthly replacement requirements were decreed as follows:

<u>Winter Return Flow Replacement Obligations</u>						
	Nov.	Dec.	Jan.	Feb.	Mar.	Total
<u>Fisher Ditch</u>	12.08	10.28	8.59	7.19	5.32	43.46
<u>Kershaw Ditch</u>	1.22	.68	.34	.16	.06	2.46
<u>Manhart Ditch</u>	1.51	1.50	1.26	1.03	.57	5.87
<u>Totals</u>	14.81	12.46	10.19	8.38	5.95	51.79

The Consolidated Decree provides that the 51.79 acre feet of non-irrigation season return flows will be replaced by releases from Magic Mountain Reservoir, Gordon Lake or other smaller ponds, of water stored pursuant to the Changed Water Rights by exchange or of water stored in these facilities in priority. Consolidated Decree ¶¶34, 35. Gordon Lake is hereby eliminated as a source of releases of replacement water under the Consolidated Decree. In addition, the Applicant shall replace historical non-irrigation season return flows for the Changed Water Rights by releases of water under the Coors leases or additional sources of replacement water that the Applicant may acquire or lease and add to this augmentation plan pursuant to the procedures of Paragraph 6.4.3 of this Decree.

7.2.1 The requested amendment adds an additional source of water, the Coors Lease water, to replace out-of-priority non-irrigation season return flows under the Consolidated Decree. There is adequate water under the Coors leases available to satisfy the requirements of the Consolidated Decree and reliance on that water as a source of replacement supply under this augmentation plan will not injure any vested absolute or decreed conditional water rights if it is delivered pursuant to the terms and conditions of this Decree. As discussed above, Applicant's right to use water under the Coors leases is coextensive with the term of the leases and will terminate with those leases.

7.2.1.1 To the extent any additional source of water furnished by Coors to Martin Marietta includes water delivered by Thornton to Coors pursuant to existing agreements

between the Adolph Coors Company and the City of Thornton (as amended) and between the City of Golden and Adolph Coors Company (both dated May 23, 1988 and the subject of the decree in Case No. 96CW1117), Coors' disposition or assignment of such water to Martin Marietta is subject to the terms of said agreements and decree.

7.2.2 Applicant may also use water stored in priority in the Spec Agg Pit, described below, as a source of water to replace non-irrigation season return flows.

7.2.3 Applicant may rely upon additional sources of water to replace out-of-priority non-irrigation season return flows under the procedures described above in Paragraph 6.4.3., but only upon satisfaction of Applicant's burden of proof as contemplated in said procedures.

8. Storage Right

8.1 Name of the structure: Spec Agg Pit

8.2 Legal Description: The Spec Agg Pit is an excavated hard rock quarry pit located on the channel of Jackson Gulch and which captures and stores water flowing down Jackson Gulch, when in priority. The approximate center point of the Spec Agg Pit is located at a point from whence the northwest corner of Section 15, T.4S., R.70W. of the 6th P.M. bears north 47 degrees, 0 minutes west, approximately 2,200 feet.

8.3 Source of Water: Jackson Gulch, as depicted in **Figure 2**, a tributary to Lena Gulch and Clear Creek, tributary to the South Platte River; Lena Gulch, tributary to Clear Creek, through the Lena Gulch Feeder Ditch No. 2 (described below and depicted on Figure 2).

8.4 Appropriation Date: October 30, 2015. The appropriation was initiated by the formation of an intent to store water together with the filing of this Application.

8.5 Amount claimed: 320 AF, conditional. The total and active capacity is 320 AF (zero dead pool).

8.6 Use: Storage for commercial and industrial purposes, reclamation of mined lands, irrigation, dust control, concrete and asphalt production, rock washing, replacement of return flows, augmentation and exchange¹.

8.7 Alternate Point of Storage: The Spec Agg Pit will also operate as an alternate place of storage for Magic Mountain Reservoir, the legal description of which is stated below.

¹ This Decree does not approve a specific exchange for the use of water stored in priority at the Magic Mountain Reservoir, Spec Agg Pit, or Lena Gulch Feeder Ditch No. 2. Any use of water diverted or stored in priority at these structures by exchange must be authorized by a separate court decree or administrative approval, and such use would be limited to use on properties presently owned or operated by Applicant or subsequently acquired by Applicant.

8.8 Remarks: The accounting year for administration of the storage water right decreed herein shall be November 1 through October 31. All or a portion of the water stored in the Spec Agg Pit may be carried over from year to year and cumulatively the Spec Agg Pit will store approximately 320 acre feet. The Spec Agg Pit may also divert and store by exchange consumptive use credits associated with Consolidated Case Nos. 90CW215 and 91CW47 and water available through the Coors Leases or their renewal. It may also store water as an alternate place of storage for the Magic Mountain Reservoir water rights.

9. Direct Flow Right

9.1 Name of the structure: Lena Gulch Feeder Ditch No.2

9.2 Legal Description: The point of diversion is located at a point whence the northeast corner of Section 15, T.4S., R.70W. of the 6th P.M. bears north 19 degrees, 46 minutes east, approximately 1,743 feet, as depicted on Figure 2.

9.3 Source of water: An unnamed tributary of Lena Gulch, a tributary of Clear Creek.

9.4 Appropriation Date: October 30, 2015. The appropriation was initiated by the formation of an intent to divert water together with the filing of this Application.

9.5 Amount claimed: 2.0 cfs, conditional

9.6 Use: Commercial, industrial, reclamation of mined lands, irrigation, dust control, concrete and asphalt production, rock washing, replacement of return flows, augmentation and exchange², both directly and after storage in Magic Mountain Reservoir or the Spec Agg Pit.

10. Change of Water Right - Alternate Point of Diversion for Magic Mountain Reservoir from the Lena Gulch Feeder Ditch No. 2

10.1 Description of Proposed Change:

10.1.1 The Applicant proposes to add the Lena Gulch Feeder Ditch No. 2 (described above) as an alternate point of diversion to supply Magic Mountain Reservoir in addition to the points of diversion described below.

10.2 Decreed Water Right for Which Change is Sought:

10.2.1 Name of structures: Magic Mountain Reservoir

10.2.2 Date of original and all relevant subsequent decrees: June 17, 1993 (Case Nos. 90CW215 and 91CW047), October 31, 2014 (Case No. 13CW27) and November 3, 2014 (Case No. 13CW28).

² See Footnote No. 1, *supra*.

10.2.3 Legal description of structure as described in the most recent decree that adjudicated the location: Magic Mountain Dam and Reservoir is located such that the southwest corner of its concrete spillway bears north 71 degrees 20 minutes east, approximately 933 feet from the south corner of Section 10, T4S, R70W of the 6th P.M., Jefferson County, Colorado.

10.2.4 Decreed source of water: Magic Mountain Reservoir is located on Jackson Gulch, and captures and stores water flowing down Jackson Gulch. Points of diversion to Magic Mountain Dam and Reservoir are also established on Lena Gulch, a tributary of Clear Creek, and on Apex Gulch, a tributary of Lena Gulch, as follows:

(a) Lena Gulch Feeder Ditch is decreed at a point on the west bank of Lena Gulch Creek from whence the northeast corner of Section 15, T.4S., R.70W of the 6th P.M. bears north 11 degrees, 0 minutes east, approximately 2050 feet. Amount: 2.0 cfs

(b) Apex Gulch Feeder Ditch is decreed at a point on the south bank of Apex Gulch Creek from whence the southwest corner of Section 10, T.4S., R.70W. of the 6th P.M., bears south 72 degrees, 40 minutes east, approximately 3480 feet. Amount: 3.0 cfs

10.2.5 Appropriation Dates:

(a) December 28, 1990 and March 25, 1999

10.2.6 Total amount decreed to structure:

(a) 116.11 acre-feet, absolute (appropriation date: December 28, 1990)

(b) 3.89 acre-feet, conditional (appropriation date: December 28, 1990)

(c) 27 acre-feet, conditional (appropriation date: March 25, 1999)

10.2.7 Decreed use or uses: Commercial, industrial, reclamation of mined lands which may include irrigation, dust suppression, mining operations, including rock washing, concrete plant operations, augmentation and exchange³.

10.2.8 Amount of water the Applicant proposes to change: Diversions under the Lena Gulch Feeder Ditch No. 2 will be limited to the water legally and physically available at the point of diversion decreed in the Consolidated Decree for Magic Mountain Reservoir at the Lena Gulch Feeder Ditch described above, up to 2.0 cfs and 147 acre-feet per year, the decreed volume of Magic Mountain Reservoir. Applicant shall install measuring and recording devices reasonably necessary for the Division Engineer to determine the amount of flow physically available at the location of the Lena Gulch Feeder Ditch.

³ See Footnote No. 1, *supra*.

11. Change of Water Right – Alternate Place of Storage for Magic Mountain

11.1 Description of Proposed Change:

11.1.1 The Applicant proposes to add the Spec Agg Pit (described above) as an alternate place of storage for the Magic Mountain Reservoir.

11.2 Decreed Water Right for Which Change is Sought:

11.2.1 Name of structures: Magic Mountain Reservoir

11.2.2 Date of original and all relevant subsequent decrees: June 17, 1993 (Case Nos. 90CW215 and 91CW047), October 31, 2014 (Case No. 13CW27) and November 3, 2014 (Case No. 13CW28).

11.2.3 Legal description of structure as described in the most recent decree that adjudicated the location: Magic Mountain Dam and Reservoir is located such that the southwest corner of its concrete spillway bears north 71' 20' east, approximately 933 feet from the south corner of Section 10, T4S, R70W of the 6th P.M., Jefferson County, Colorado.

11.2.4 Decreed source of water: Magic Mountain Reservoir is located on Jackson Gulch, and captures and stores water flowing down Jackson Gulch, when in priority. Points of diversion to Magic Mountain Dam and Reservoir are also established on Lena Gulch, a tributary of Clear Creek, and on Apex Gulch, a tributary of Lena Gulch.

11.2.5 Appropriation Dates:

(a) December 28, 1990 and March 25, 1999

11.2.6 Total amount decreed to structure:

(a) 116.11 acre-feet, absolute (appropriation date: December 28, 1990)

(b) 3.89 acre-feet, conditional (appropriation date: December 28, 1990)

(c) 27 acre-feet, conditional (appropriation date: March 25, 1999)

11.2.7 Decreed use or uses: Commercial, industrial, reclamation of mined lands which may include irrigation, dust suppression, mining operations, including rock washing, concrete plant operations, augmentation and exchange⁴.

⁴ See Footnote No. 1, *supra*.

11.2.8 Amount of water the Applicant proposes to change: The combined storage in Magic Mountain and the Spec Agg Pit under the Magic Mountain Reservoir priorities will be limited to 147 acre-feet per year.

11.2.9 Diversions into the Spec Agg Pit as an alternate place of storage for the water rights previously decreed to Magic Mountain Reservoir will be limited to the water legally and physically available at each of the points of diversion for Magic Mountain Reservoir decreed in the Consolidated Decree (Lena Gulch, up to 2.0 c.f.s., Jackson Gulch, up to 3.0 c.f.s., and Apex Gulch, up to 3.0 c.f.s.).

12. Appropriative Right of Exchange

12.1 Name of Exchange: Coors Lease Exchange

12.1.1 Exchange-From Point: The confluence of Clear Creek and Lena Gulch located in the SW ¼ of Section 22, T.3S., R.69W., 6th P.M., as depicted on the attached Figure 2.

12.1.2 Exchange-To Points: The upstream termini, shown on Figure 2, are as follows:

(a) Magic Mountain Reservoir, located on Jackson Gulch, a tributary of Lena Gulch, tributary to Clear Creek. The southwest corner of its concrete spillway bears N. 71°20'E. approximately 933 feet from the south corner of Section 10, T.4S., R.70W., of the 6th P.M., Jefferson County, Colorado.

(b) Lena Gulch Feeder Ditch. The point of diversion is located at a point on the west bank of Lena Gulch Creek from whence the northeast corner of Section 15, T.4S., R.70W. of the 6th P.M. bears north 11 degrees, 0 minutes east, approximately 2050 feet.

(c) Apex Gulch Feeder Ditch. The point of diversion is located at a point on the south bank of Apex Gulch Creek from whence the southwest corner of Section 10, T.4S., R.70W. of the 6th P.M., bears south 72 degrees, 40 minutes east, approximately 3480 feet.

(d) The Spec Agg Pit, located on Jackson Gulch, tributary to Lena Gulch, tributary to Clear Creek. The approximate center point of the Spec Agg Pit is located at a point from whence the northwest corner of Section 15, T.4S., R.70W. of the 6th P.M. bears north 47 degrees, 0 minutes west, approximately 2,200 feet.

(e) Lena Gulch Feeder Ditch No. 2. The point of diversion is located at a point whence the northeast corner of Section 15, T.4S., R.70W. of the 6th P.M. bears north 19 degrees, 46 minutes east, approximately 1,743 feet.

12.1.3 Sources. The sources of the Coors Lease Exchange include: Clear Creek; Lena Gulch, a tributary to Clear Creek; and Apex Gulch and Jackson Gulch, tributaries to Lena Gulch; and an unnamed tributary to Lena Gulch through the Lena Gulch Feeder Ditch No. 2.

12.1.4 Exchange Priorities.

(a) Exchange to Magic Mountain Reservoir.

(i) Date of Initiation of Appropriation: March 22, 2007.

(ii) How appropriation initiated: By the execution of the Coors Lease and the filing of an application for a SWSP.

(iii) Amount: 0.06 c.f.s. absolute (diverted on February 11, 2010), 0.94 c.f.s. conditional.

(b) Exchange to Lena Gulch Feeder Ditch

(i) Date of Initiation of Appropriation: March 22, 2007

(ii) How appropriation initiated: By execution of the Coors Lease and the filing of an application for a SWSP.

(iii) Amount: 1.0 c.f.s. conditional

(c) Exchange to Apex Gulch Feeder Ditch

(i) Date of Initiation of Appropriation: March 22, 2007

(ii) How appropriation initiated: By execution of the Coors Lease and the filing of an application for a SWSP.

(iii) Amount claimed: 0.08 c.f.s. absolute (diverted on February 11, 2010), 0.92 c.f.s. conditional.

(d) Exchange to Spec Agg Pit

(i) Date of Initiation of Appropriation: October 30, 2015.

(ii) How appropriation initiated: By the formation of the intent to divert and store water together with the filing of this Application.

(iii) Amount claimed: 1.0 c.f.s. conditional.

(e) Exchange to Lena Gulch Feeder Ditch No. 2

(i) Date of Initiation of Appropriation: October 30, 2015.

(ii) How appropriation initiated: By the formation of the intent to divert and store water together with the filing of this Application.

(iii) Amount claimed: 1.0 c.f.s. conditional.

12.1.5 Total amount claimed under the Coors Lease Exchange: 1.0 c.f.s. for each individual exchange or for any combination of the above exchanges: 0.06 c.f.s. of the exchange to Magic Mountain Reservoir is hereby made absolute, with the remaining 0.94 c.f.s. conditional; 0.08 c.f.s. of the exchange to Apex Gulch Feeder Ditch is hereby made absolute, with the remaining 0.92 c.f.s. conditional.

12.1.6 Use or proposed use: Storage in Magic Mountain Reservoir and Spec Agg Pit of water under the Coors leases in excess of that needed to augment out-of-priority depletions as described above. The exchanged water is to be used for industrial, commercial, reclamation, irrigation, dust control, concrete and asphalt production, rock washing, plant operations and replacement of evaporation from ponds and reservoirs, for augmentation of out-of-priority depletions at the Spec Agg Quarry and to replace return flows under the Consolidated Decree.

(a) Name and address of owner of land on which points of diversion and places of use are located: All are located on land owned by the Applicant.

12.2 Applicant has initiated the appropriation of the requested exchange of 1.00 c.f.s. Applicant can and will complete the appropriation of the remaining portion of the exchange with reasonable diligence and within a reasonable time period.

12.3 This exchange and its appropriation dates are limited to the Coors leases, not to exceed 200 acre-feet per year, and not to other potentially new sources of water that may be exchanged through the structures listed in Paragraph 12.1.2 in the future. The exchange rate is limited to the lesser of 1 c.f.s., the amount of water actually released by Coors, the exchange potential, and the amount of water actually available for diversion to storage.

CONCLUSIONS OF LAW

13. Incorporation of Findings of Fact. The foregoing Findings of Fact are incorporated herein to the extent they constitute Conclusions of Law.

14. Notice and Jurisdiction. The Application is one contemplated by law and the Court has exclusive jurisdiction over this matter. *See* C.R.S. § 37-92-203(1), 302(1)(a). Applicant has given full and adequate notice of the claims adjudicated herein in the manner required by law. The Application and resume publications placed all interested persons on notice

of the relief requested by the Application and granted by this Decree. The Court has jurisdiction over the subject matter of this case to enter the Decree requested and over all persons affected thereby, regardless of whether they have chosen to appear. See C.R.S. § 37-92-302.

15. **Filing.** Applicant properly filed the application in this matter with the Water Court under C.R.S. § 37-92-302(1)(a). The parties appearing in this matter filed timely statements of opposition. The time for filing statements of opposition has expired.
16. **Satisfaction of Burden of Proof.** Applicant has complied with all requirements and met all standards and burdens of proof, including, but not limited to, C.R.S. §§ 37-92-302, 37-92-304, and 37-92-305. Applicant is therefore entitled to a decree confirming and approving the requested amendments to the plan for augmentation and changes of water rights adjudicated by the Consolidated Decree, the claimed conditional storage and direct flow water rights, changes to Magic Mountain Reservoir water rights for an alternate point of diversion and alternate place or storage, and the requested appropriative right of exchange.

JUDGMENT AND DECREE

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ruled, adjudged, ordered, and decreed that:

17. **Incorporation of Findings and Conclusions.** The foregoing Findings of Fact and Conclusions of Law are incorporated herein as part of the Decree.
18. **Approval of Application.** The Application is hereby confirmed, approved, adjudicated, and decreed, subject to the terms and conditions described herein.
19. **Amendment to Augmentation Plan.** The plan for augmentation adjudicated by the Consolidated Decree is hereby amended as described in Paragraph 6 above. In particular, Martin Marietta may use water under the Coors leases as an additional source of augmentation water in a manner consistent with Paragraph 6.3.1 and may use additional sources of augmentation water it acquires in the future under the procedures described in Paragraph 6.4.3. The Lowell Pit site and the Corporate Office, including Gordon Lake and the future concrete batch plant, are removed from the augmentation plan and Martin Marietta has no obligation to augment stream depletions from those facilities. No out-of-priority depletions from the Lowell Pit, or the Corporate Office, including Gordon Lake, are authorized pursuant to the Consolidated Decree or this Decree. The facilities and operations to be augmented under the amended plan include the Spec Agg Quarry (including out-of-priority diversions and storage in the Magic Mountain Reservoir), Spec Agg Pit, the Fenton Pit and Heritage Square to the extent water is supplied through the tributary wells on the property and not through the City of Golden's municipal water system. Applicant may use excess augmentation credits not needed under this plan to

meet augmentation or replacement obligations at other Martin Marietta facilities, provided, however, that any such use shall be pursuant to a new application for a plan for augmentation, change of water rights, substitute water supply plan, or other administrative approval, including from the Colorado Division of Water Resources.

20. **Amendment to Changes of Water Rights.** The changes of water rights adjudicated by the Consolidated Decree are hereby amended as described in Paragraph 7 above. Martin Marietta may use water under the Coors leases and water stored in the Spec Agg Pit as additional sources of replacement water for decreed non-irrigation season return flows associated with the Changed Water Rights. It may also use replacement water it acquires in the future for this purpose under the procedures described in Paragraph 6.4.3.
21. **New Conditional Water Rights.** The Court hereby grants and approves Applicant's claimed conditional storage right for the Spec Agg Pit described in Paragraph 8 and for Lena Gulch Feeder Ditch No. 2 described in Paragraph 9. The conditional storage right for the Spec Agg Pit and conditional direct flow right for Lena Gulch Feeder Ditch No. 2 will be administered as having been filed in 2015 and shall be junior to all water rights applied for in previous years. As between water rights filed in the same calendar year, priority shall be determined by decreed dates of appropriation.

At least 63 days prior to initially storing water in the Spec Agg Pit under this Decree, Applicant shall demonstrate to the Division Engineer that the Pit satisfies the Colorado Division of Water Resources' Reservoir Administration Guidelines as they apply to liners for subgrade storage.

22. **Alternate Place of Storage and Point of Diversion.** The Court hereby grants and approves Applicant's request to change the decreed water rights and conditional water rights for Magic Mountain Reservoir to add the Spec Agg Pit as an alternate place of storage as described in Paragraph 11 and the Lena Gulch Feeder Ditch No. 2 as an alternate point of diversion to the presently decreed points of diversion, as described in Paragraph 10, subject to the following terms. Magic Mountain's absolute storage right in an amount of 116.11 AF and conditional storage right in the amount of 3.89 AF shall be administered as having been filed in 1990 and the conditional storage right in an amount of 27 AF shall be administered as having been filed in 1999.

22.1 Water may be stored in the Spec Agg Pit under the Magic Mountain Reservoir water rights only to the extent water is legally and physically available for diversion into said reservoir at the points of diversion decreed in the Consolidated Decree. The combined storage of water in Magic Mountain Reservoir and Spec Agg Pit under the Magic Mountain Reservoir priorities is limited to 147 acre feet per year. Any water stored out of priority shall be released within 72 hours.

22.2 Water may be diverted at Lena Gulch Feeder Ditch No. 2 as an alternate point of diversion for the decreed points of diversion for Magic Mountain Reservoir only to the extent

water is legally and physically available for diversion at the points of diversion decreed in the Consolidated Decree, not to exceed 2.0 c.f.s.

23. Appropriative Right of Exchange. The appropriative right of exchange described in Paragraph 12 above is hereby confirmed and approved, subject to the following terms and conditions:

23.1 There is live flow between the Exchange-From and Exchange-To Points in excess of the rate at which water is being diverted under the 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 available at the Exchange-To structures if they reasonably determine that there will be no injury to any other water rights or exchange; and

23.2 There are no intervening water rights or decreed exchanges with priorities senior to the subject exchange that are calling for water.

23.3 Prior to exercising the exchange, Applicant shall provide adequate notice to and obtain approval from the Water Commissioner of the amount and timing of the exchange. For purposes of this Decree, adequate notice will be 48 hours, or such lesser time as acceptable to the Water Commissioner.

23.4 The absolute and conditional subject exchanges will be administered as having been filed in 2013 and 2015, respectively, and shall be junior to all water rights applied for in previous years. As between water rights filed in the same calendar year, priority shall be determined by dates of appropriation.

24. Adequacy of Substitute Supply. The substitute supply of water that will be provided for replacement under this amended plan for augmentation and exchange shall be of sufficient quality and continuity to meet in time, location, and amount the requirements for which the water of downstream senior appropriators has normally been used.

25. Administration.

25.1 The State Engineer shall curtail all out-of-priority diversions, the depletions from which are not replaced pursuant to the augmentation plan, so as to prevent injury to other water rights.

25.2 The Division Engineer, or his designated representative, will administer all water transported in the South Platte River or its tributaries under this Decree, including water for replacement of depletions, past intervening headgates to ensure that such water is not intercepted or otherwise diminished in quantity by diversion, use or other interference by intervening water rights and to assure that such water remains available and suitable for Applicant's uses under this Decree, except when any intervening headgate in existence as of the date of this Decree is

diverting the entire flow of (“sweeping”) the river consistent with any existing decrees that apply to any such intervening headgate(s). In the event that delivery past such headgates, which have historically commanded or swept the stream, requires the installation of a bypass structure or the use of an existing bypass structure by agreement with a third-party, Applicant is responsible for either installing a new bypass structure with a continuous recording measuring device(s) as approved by the Water Commissioner or securing an agreement with a third-party to use an existing bypass structure or install a new structure and providing such information and agreement to the Division Engineer.

25.3 Applicant may aggregate releases necessary to replace out-of-priority depletions and return flow requirements under this plan with the permission of the Water Commissioner, provided there is no senior downstream water right holder requiring replacement water on a daily basis. With approval from the Water Commissioner, Applicant may aggregate such releases for up to one month from November 16 through February and from March 1 through November 15 Applicant may aggregate releases weekly. At all other times, replacements shall be made on a daily basis.

25.4 The State Engineer and Division Engineer are not party to or responsible for the administration of third party agreements, contracts or stipulations.

25.5 An as-built elevation-area-capacity table shall be submitted to and approved by the Division Engineer prior to any storage pursuant to the conditional water storage right for the Spec Agg Pit. Applicant shall install and maintain a staff gage in Spec Agg Pit and such other measuring devices as may be required by State water officials for administration of these water storage rights. The Spec Agg Pit shall be equipped with outlet works capable of passing all out-of-priority inflows, not otherwise stored by exchange as decreed herein, to the nearest natural watercourse. All such out-of-priority inflows to this reservoir from any source, including precipitation, must be released without use and without deduction for evaporation within 72 hours or as authorized by the Water Commissioner or Division Engineer.

26. Accounting and Measurement.

26.1 Accounting. The measurement and accounting of operations under this plan for augmentation shall be performed on a daily basis. Applicant shall submit monthly accounting to the Division Engineer within 30 days of the end of the preceding measurement month, though the Division Engineer may require more frequent reporting. The accounting forms are not decreed herein but Applicant has submitted the initial accounting forms to the Division Engineer and the opposers.

26.1.1 The initial accounting forms are attached as **Exhibit 1**. Opposers shall have sixty-three (63) days after entry of this Decree to submit comments on the initial accounting forms. An approval or denial of the initial accounting forms by the Division Engineer shall occur after the comment period has ended. Applicant shall not operate under this Decree until

the accounting forms have been approved by the Division Engineer. Any disputes concerning the accounting shall be resolved by the Court under its retained jurisdiction.

26.1.2 The accounting forms may be revised from time to time as long as the information required by this Decree is included in the forms and with the approval of the Division Engineer. Applicant shall provide opposers in this case with copies of its proposed amended accounting forms, and opposers shall have 35 days from the date of the notice to provide comments to Applicant and the Division Engineer. At a minimum, the accounting forms shall include the following: (1) the controlling priority on the River to which diversions under this Decree are subordinate, (2) total diversions and diversions by each structure, (3) total depletions and depletions from each structure, (4) total net out-of-priority depletions requiring replacement, (5) total return flow obligations requiring replacement, (6) available historical consumptive use credits, (7) available replacement supply under the Coors leases, (8) any other replacement supplies, transit losses, excess credits delivered to storage in Magic Mountain Reservoir and Spec Agg Pit by exchange, (9) releases from Magic Mountain Reservoir, (10) releases from Spec Agg Pit, (11) net effect to the river, (12) total storage content and in-priority water stored in Magic Mountain Reservoir and Spec Agg Pit Reservoir, (13) the location of where obligations are owed, (14) exchange to and from amounts and locations and (15) all volumetric limits. The accounting shall be balanced on a monthly basis or more frequently if required by the Water Commissioner or the Division Engineer, ensuring that the actual amount of water in the Reservoirs as determined by a staff gage and a stage-capacity table approved by the Division Engineer does not exceed the lawful storage after taking into account required evaporation, if any; however from March 1 through November 15 this accounting shall be balanced on a weekly basis. Depletions requiring replacement may include lagged depletions requiring replacement from any future use of the five Heritage Square wells for decreed purposes as described in the Consolidated Decree. At least 35 days before pumping the wells, the Applicant shall file with the Court and serve on the Division Engineer and the opposers the lagging factors that the Applicant will use to calculate depletions from the wells. If any party, or the Division Engineer, wishes to object to the Applicant's lagging factors, a written objection shall be filed within 35 days of the date of the Applicant's filing. If no objection is so filed, then the Applicant may use the selected lagging factors without any further notice to the Court, the opposers, or the Division Engineer. If an objection is filed, the Applicant will not pump the wells until the matter is resolved by the Court.

26.1.3 The accounting is an administrative tool required by this Decree to confirm that diversions and replacements are made in correct time, location, and amount in accordance with the terms and conditions of this Decree. The accounting shall be sufficient in detail so that state water officials are not limited in their duty to administer, and make record of, the movement of water in accordance with this Decree. All accounting must be acceptable to the Division Engineer, or his designated representative, and shall adhere to all applicable policy, guidelines, and protocol established by the Division Engineer.

26.2 Measurement. Applicant shall install, operate and maintain, at its own expense, all meters, gauges and other measuring and recording devices reasonably required by the State Engineer and Division Engineer for administration of the water rights that are the subject of this Decree in accordance with C.R.S. § 37-92-502(5).

27. Retained Jurisdiction.

27.1 Under C.R.S. § 37-92-304(6), the Court shall retain jurisdiction over the amended augmentation plan and changes of water rights granted herein for reconsideration of the question of whether the provisions of this Decree are sufficient to prevent injury to vested water rights for a period of five years from the date of initiation of operation of the amended plan for augmentation. Applicant will provide notice to the parties to this case of the initiation of the operation of the amended plan for augmentation. Prior to the expiration of this time period, the period may be extended as provided in C.R.S. § 37-92-304(6). Consistent with Paragraph 6.4.3(c), the Court shall retain continuing jurisdiction over any disputes relating to Applicant's use of sources of augmentation and return flow replacement water not specifically authorized by this Decree. The Court will also maintain continuing jurisdiction over disputes regarding accounting.

27.2 The Court's retained jurisdiction may be invoked by any existing party to this case by petition with notice to all other parties. The petition shall set forth with particularity the facts that the petitioner claims are causing injury, together with proposed language that the petitioner contends would remedy the alleged injury that is the basis for the petition. Other parties shall have 56 days from the service of the petition to file a response thereto. The party lodging the petition shall have the burden of going forward to establish a prima facie showing of the injury alleged in the petition, and the Applicant shall then have the burden of proof to show that the alleged injury has not occurred or to propose additional terms and conditions that will prevent injury.

28. No Precedent.

There was no trial in this matter and no issues were litigated. The Findings of Fact, Conclusions of Law, Judgment and Decree were completed as the result of substantial discussions, negotiations, and compromises by, between and among the Applicant and the Objectors. It is understood and agreed by the Applicant and the Objectors hereto, and found and concluded by the Court, that the acquiescence of the Applicant and the Objectors to a stipulated decree under the specific factual and legal circumstances of this contested matter and upon the numerous and interrelated compromises reached by the Applicant and the Objectors shall never give rise to any argument, claim, defense or theory of acquiescence, waiver, bar, merger, stare decisis, res judicata, estoppel, laches, or otherwise, nor to any administrative or judicial practice or precedent, by or against the Applicant and the Objectors hereto in any other matter, case, or dispute, nor shall testimony concerning such acquiescence of the Applicant and the Objectors to a stipulated decree herein be allowed in any other matter, case, or dispute. The Applicant and Objectors stipulate and agree that they do not intend the Findings of Fact, Conclusions of Law,

Judgment and Decree to have the effect of precedent or preclusion on any factual or legal issue in any other matter. The Applicant and the Objectors further stipulate and agree that they each reserve the right to propose or to challenge any legal or factual position in any other matter filed in this or any other court without limitation by these Findings of Fact, Conclusions of Law, Ruling and Decree.

29. Transfer of Conditional Water Right/Change of Address.

Pursuant to Rule 9 of the Uniform Local Rules for all State Water Court Divisions, upon the sale or other transfer of the conditional water right decreed herein, the transferee shall file with the Water Court a notice of transfer which shall state:

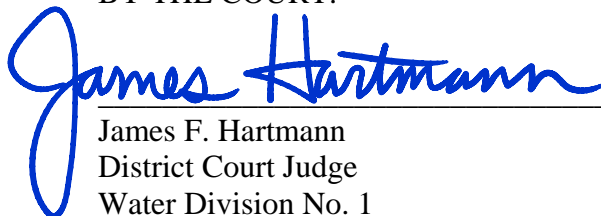
- 1) The title and case number of this case 13CW3053;
- 2) The description of the conditional water right transferred;
- 3) The name of the transferor;
- 4) The name and mailing address of the transferee; and
- 5) A copy of the recorded deed.

The owner of said conditional water right shall also notify the clerk of the Water Court of any change in mailing address. The clerk shall also place any such notice of transfer or change of address in the case file of this Case No. 13CW3053 and in the case file (if any) in which the Court first makes a finding of diligence.

30. Future Diligence Proceedings. If Applicant desires to maintain the conditional exchange and water rights decreed herein, an application for finding of reasonable diligence must be filed on or before May 31, 2022, or a showing must be made on or before that date that the conditional exchange and water rights have become absolute by reason of the completion of their appropriations.

ENTERED this 23rd day of May, 2016.

BY THE COURT:


James F. Hartmann
District Court Judge
Water Division No. 1

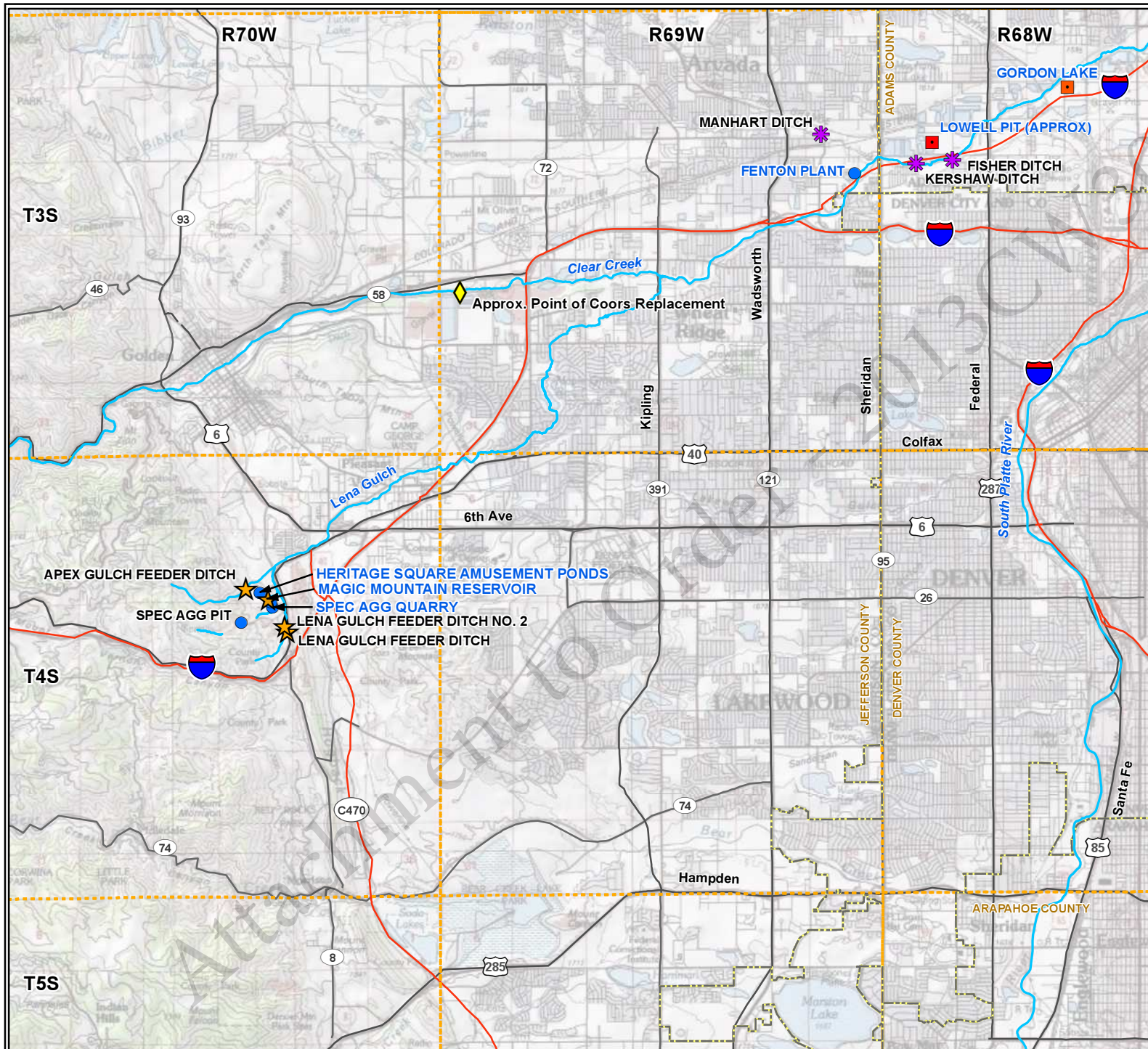
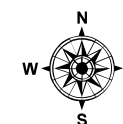


Figure 1 Martin Marietta Cse No. 13CW3053 Amended Augmentation Plan Facilities Map

Date 11/23/2015 | Job No 1204 01
303 806 8952 | www.bbawater.com



- Legend**
- Martin Marietta Facilities
 - ★ Diversion Points
 - ✱ Changed Water Rights
 - Former Western Mobile Facilities
 - PLSS Township
 - County Boundary
- Data Source CDSS, CDOT, USGS, CDOT



1 inch 10,000 feet
0 6,000 12,000 Feet

Overview Map

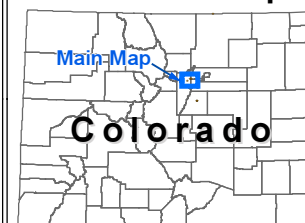




Figure 2 **Martin Marietta** **Case No.** **13CW3053** **Spec Agg** **Quarry Water** **Facilities Map**

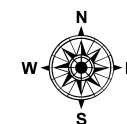
Date: 11/20/2015 | Job No. 1204.01
 303.806.8952 | www.bbawater.com



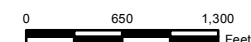
Legend

- Legal Location
- Measurement Structure
- ▲ Sediment Ponds
- ★ Point of Diversion
- Approx. Property Boundary

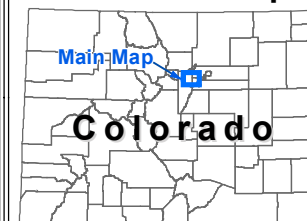
Aerial Photo Date: 10/06/2014
 Data Source: Google Earth, CDSS, CDOT, USGS, BLM



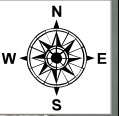
1 inch = 1,300 feet



Overview Map



N68W



T3S

TENNYSON ST

LOWELL BD

Parcel 3
(4.9 ac.)

0.29 ac.

Sec. 07

Parcel 7
(4 ac.)

Parcel 6
(5.2 ac.)

Parcel 5-A
(5.3 ac.)

Sec. 08

Sec. 18

Kershaw Ditch

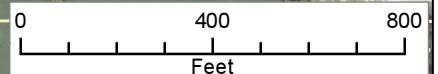


Figure 3 **Martin Marietta** **Case No. 13CW3053** **Manhart Ditch Parcels** **Dry-Up Area**

Date 11/23/2015 | Job No 1204 01

Legend

- WMI Grippa Parcels
- MM Manhart Dry-Up Area
- Parcels Irrigated with 18.5 shares
- Ditch
- PLSS Section

Aerial Photo Date 7/16/2013
 Data Source USGS, BLM, CDOT, CDSS | Scale 1 4,800

Colorado

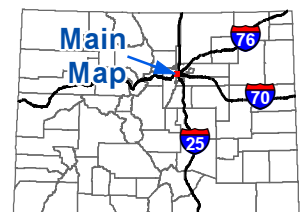


Table 1
Martin Marietta
Case No. 13CW3053
Total Estimated Depletions
(all value in acre-feet)

Month	Net Evaporation from Exposed Surface Area			Operational Losses			Total of Lagged Fenton Depletions and Spec Agg Uses
	Magic Mountain Reservoir	Spec Agg Sedimentation Ponds	Spec Agg Pit	Operational Uses at Spec Agg Quarry	Operational Uses at Fenton Plant	Lagged Depletions from Operational Uses at Fenton Plant	
	[1]	[2]	[3]	[4]	[5]	[6]	[7]
Nov	0.66	0.11	0.78	10.47	1.64	1.97	13.99
Dec	0.49	0.08	0.59	3.83	1.50	1.78	6.77
Jan	0.49	0.08	0.59	2.85	1.63	1.77	5.79
Feb	0.58	0.09	0.69	3.51	1.66	1.75	6.61
Mar	0.91	0.15	1.08	9.39	2.18	2.05	13.57
Apr	1.48	0.24	1.76	9.93	2.09	2.02	15.44
May	1.98	0.32	2.35	12.33	2.29	2.17	19.15
Jun	2.39	0.39	2.84	15.72	2.71	2.48	23.81
Jul	2.47	0.41	2.94	16.53	2.78	2.60	24.95
Aug	2.22	0.36	2.65	19.14	2.67	2.60	26.97
Sep	1.65	0.27	1.96	16.13	2.74	2.67	22.67
Oct	1.15	0.19	1.37	12.38	2.54	2.57	17.66
Total	16.46	2.70	19.60	132.20	26.42	26.42	197.38

Notes:

[1] Net evaporation from Magic Mountain Reservoir is based upon the decreed net evaporation rate of 2.45 acre-feet/acre/year (Consolidated Case Nos. 90CW215 and 91CW047) and a maximum surface area of 6.72 acres. Monthly evaporation distribution is based upon SB89-120 guidelines for elevations below 6,500 feet.

[2] Net evaporation from the Spec. Agg. Sedimentation Ponds is based upon the decreed net evaporation rate of 2.45 acre-feet/acre/year and the maximum decreed surface area of 1.1 acres (per Consolidated Case Nos. 90CW215 and 91CW047). Monthly evaporation distribution is based upon SB89-120 guidelines for elevations below 6,500 feet.

[3] Net evaporation from water stored in the Spec Agg Pit is based upon a maximum surface area of 8 acres and the decreed evaporation rate of 2.45 acre-feet/acre/year (per Consolidated Case Nos. 90CW215 and 91CW047). Monthly evaporation distribution is based upon SB89-120 guidelines for elevations below 6,500 feet.

[4] Operational losses are equal to the projected volume to be pumped from Magic Mountain Reservoir or Spec Agg Pit for dust control, plant uses, spray bar, concrete batching, asphalt production and wash plant, based on use projections from Martin Marietta.

[5] Water pumped from the Fenton Pit for concrete batching and dust control at the Fenton concrete plant is based on maximum use projections from Martin Marietta.

[6] Pumping from the Fenton Pit in [5] is lagged using the Glover alluvial aquifer method within the IDS-AWAS program and the following aquifer parameters:

T = 33,000 gpd/ft.

s = 0.2.

x = 554 feet.

w = 2,280 feet.

[7] Equals [1] + [2] + [3] + [4] + [6].

Table 2
Martin Marietta Materials
Case No. 13CW3053
Augmentation Plan Water Balance
(all value in acre-feet)

Month	Spec Agg Depletions	Fenton Plant Lagged Depletions	Historical Consumptive Use Credit -Fisher, Kershaw & Manhart Ditches	Fisher, Kershaw & Manhart Ditch Return Flow Obligation	Balance	Total Water Available for Replacement by Coors Lease	Coors Lease Transit Losses	Net Replacement from Coors Lease	Release from Magic Mountain Reservoir or Spec Agg Pit Storage	Net Effect to River or Water Available for Exchange to Magic Mountain Reservoir
	[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]
Nov	-12.02	-1.97		-14.81	-28.80	33.00	-0.91	32.09	0.00	3.29
Dec	-4.99	-1.78		-12.46	-19.23	25.00	-0.77	24.23	0.00	5.00
Jan	-4.01	-1.77		-10.19	-15.98	29.00	-0.90	28.10	0.00	12.12
Feb	-4.87	-1.75		-8.38	-14.99	25.00	-0.73	24.27	0.00	9.27
Mar	-11.52	-2.05		-5.95	-19.52	24.00	-0.56	23.44	0.00	3.92
Apr	-13.42	-2.02	9.01		-6.43	19.00	-0.32	18.68	0.00	12.25
May	-16.98	-2.17	20.99		1.84	10.00	-0.17	9.83	0.00	11.67
Jun	-21.34	-2.48	34.90		11.09	0.00	0.00	0.00	0.00	11.09
Jul	-22.35	-2.60	40.27		15.32	0.00	0.00	0.00	0.00	15.32
Aug	-24.38	-2.60	31.58		4.61	0.00	0.00	0.00	0.00	4.61
Sep	-20.00	-2.67	15.04		-7.63	12.00	-0.20	11.80	0.00	4.17
Oct	-15.09	-2.57	2.34		-15.32	23.00	-0.40	22.60	0.00	7.28
Total	-170.96	-26.42	154.13	-51.79	-95.04	200.00	-4.97	195.03	0.00	99.99

Notes:

[1] Equals sum of Columns [1], [2], [3] and [4] of Table 1.

[2] Equals Column [6] of Table 1.

[3] Historical depletion credits for the Fisher, Kershaw, and Manhart Ditches per decree (Consolidated Case Nos. 90CW215 and 91CW047).

[4] Historical winter return flow obligations for the Fisher, Kershaw, and Manhart Ditches per decree (Consolidated Case Nos. 90CW215 and 91CW047).

[5] Equals [1] + [2] + [3] + [4].

[6] Fully consumable augmentation water leased by Coors per agreement with MM.

[7] The Coors Lease water is delivered at a location between McIntyre street and I-70, approximately 3 miles from the confluence of Lena Gulch and Clear Creek (Spec Agg Quarry point of depletions/replacement), approximately 6 miles from the Fenton Plant point of depletions and approximately 7.5 miles from the return flow point of replacement. Transit losses are assumed to be 0.50% per mile. Therefore, for Coors Lease water used to make replacements for Spec Agg Quarry depletions a 1.5% transit loss is assessed. Lease water used to replace Fenton Plant depletions is assessed a 3% transit loss. Lease water used to replace historical return flows is assessed a 3.75% transit loss.

[8] Equals [6] + [7].

[9] Releases from Magic Mountain Reservoir or the Spec Agg Quarry Pit used to replace out-of-priority depletions at the Spec Agg Quarry and the Fenton Plant.

[10] Equals [5] + [8] + [9]. Positive net effects to the river (excess replacement water) may be exchanged to decreed diversion points at the Spec Agg Quarry Site as long as exchange potential exists.

Exhibit 1
Sample Accounting - Table 1
Case No. 13CW3053
Martin Marietta
Specification Aggregates Quarry and Fenton Plant
Uses and Depletions

Day	Month	Spec Agg Quarry Uses					Fenton Plant Depletions		
	Water Used for Spec Agg Dust Suppression	Spec Agg Plant Water Use	MMR Evaporation	Sediment Pond Evaporation	Spec Agg Pit Evaporation	Total Spec Agg Uses	Fenton Plant Concrete Batching and Dust Suppression Water Use	Fenton Plant Lagged Depletions	Total Daily Depletions
	acre-feet	acre-feet	acre-feet	acre-feet	acre-feet	acre-feet	acre-feet	acre-feet	acre-feet
	[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									
21									
22									
23									
24									
25									
26									
27									
28									
29									
30									
31									
Total									

Notes:

- [1] Totalizing meter readings of water used for dust suppression provided by Martin Marietta. All water used for dust suppression is assumed to be 100% consumptive.
- [2] Totalizing meter readings of water used for the Spec Agg Plant usage provided by Martin Marietta. All plant water usage is assumed to be 100% consumptive.
- [3] Net evaporation from Magic Mountain Reservoir is based upon the decreed net evaporation rate of 2.45 acre-feet/acre/year (Consolidated Case Nos. 90CW215 and 91CW047) and the surface area based upon the Magic Mountain Reservoir stage-area-capacity curve. The monthly distribution of total annual evaporation is based upon SB 89-120 monthly distributions for sites below 6,500 ft of elevation and is evenly distributed daily in the accounting.
- [4] Net evaporation from the Spec Agg Sedimentation Pond is based upon the decreed net evaporation rate of 2.45 acre-feet/acre/year and the maximum decreed surface area of 1.1 acres. The monthly distribution of total annual evaporation is based upon SB 89-120 monthly distributions for sites below 6,500 ft of elevation and is evenly distributed daily in the accounting.
- [5] Net evaporation from the Spec Agg Quarry Pit is based upon the decreed net evaporation rate of 2.45 acre-feet/acre/year and the current surface area. The monthly distribution of total annual evaporation is based upon SB 89-120 monthly distributions for sites below 6,500 ft of elevation and is evenly distributed daily in the accounting.
- [6] Equals [1] + [2] + [3] + [4] + [5].
- [7] Water used for concrete batching and dust control at the Fenton Plant is based on measurements provided by Martin Marietta.
- [8] Depletions are lagged using the Glover alluvial aquifer method within the IDS-AWAS program using the following aquifer characteristics:
 $T = 33,000 \text{ gpd/ft}$
 $s = 0.2$
 $x = 554 \text{ feet}$
 $w = 2,280 \text{ feet}$
- [9] Equals [6] + [8].

Exhibit 1
Sample Accounting - Table 2
Case No. 13CW3053
Martin Marietta
Specification Aggregates
Replacement Supplies and Winter Return Flow Obligations

Month																													
					Fisher Ditch						Kershaw Ditch						Manhart Ditch						Coors Lease						
Day	Inflow from Apex Gulch	Inflow from Jackson Gulch	Inflow from Lena Gulch Feeder Ditch Diversion	Inflow from Lena Gulch Feeder Ditch Diversion No 2	Flow Rate Returned at Xcel Augmentation Station	HCU Credit at Xcel Augmentation Station	Winter Return Flow Obligations	Exchange Possible?	HCU Credit Exchanged to MMR	HCU Credit Exchanged to Spec Agg Pit	Flow Rate Bypassed at Headgate	HCU Credit Bypassed at Headgate	Winter Return Flow Obligations	Exchange Possible?	HCU Credit Exchanged to MMR	HCU Credit Exchanged to Spec Agg Pit	Flow Rate Bypassed at Headgate	HCU Credit Bypassed at Headgate	Winter Return Flow Obligations	Exchange Possible?	HCU Credit Exchanged to MMR	HCU Credit Exchanged to Spec Agg Pit	Coors Lease Delivery	Coors Lease Delivery Transit Loss	Total Coors Lease Water Delivered to Point of Replacement	Exchange Possible?	Coors Lease Credit Exchanged to MMR	Coors Lease Credit Exchanged to Spec Agg Pit	Total Flow Available for Exchange
	cfs	cfs	cfs	cfs	cfs	acre-feet	acre-feet	Yes/No	acre-feet	acre-feet	cfs	acre-feet	acre-feet	Yes/No	acre-feet	acre-feet	cfs	acre-feet	acre-feet	Yes/No	acre-feet	acre-feet	acre-feet	acre-feet	acre-feet	Yes/No	acre-feet	acre-feet	ac-ft
	[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9 a]	[9 b]	[10]	[11]	[12]	[13]	[14 a]	[14 b]	[15]	[16]	[17]	[18]	[19 a]	[19 b]	[20]	[21]	[22]	[23]	[24 a]	[24 b]	[25]
1																													
2																													
3																													
4																													
5																													
6																													
7																													
8																													
9																													
10																													
11																													
12																													
13																													
14																													
15																													
16																													
17																													
18																													
19																													
20																													
21																													
22																													
23																													
24																													
25																													
26																													
27																													
28																													
29																													
30																													
31																													
Total																													

Notes:

[1] Inflow data is based on average daily inlet flume measurements provided by Martin Marietta

[2] Inflow data is based on totalizing flow meter values from the pit discharge pump provided by Martin Marietta

[3] Inflow data to be provided by Martin Marietta

[4] Inflow data to be provided by Martin Marietta

[5] Flow rates recorded provided by Xcel Energy

[6] Equals [5] x 1 9835 acre-feet/day/cfs

[7] Winter return flow obligations based on Consolidated Case Nos 90CW215 and 91CW047

[8] If the Fisher Ditch water rights are in priority and no call exists between the point of delivery and point of depletion on Clear Creek Approval from the Water Commissioner is also required prior to exchange

[9 a] and [9 b] Equals total volume of Fisher Ditch credits exchanged to storage in Magic Mountain Reservoir or the Spec Ag Pit Water exchanged to the reservoirs is equal to the lesser of the supply minus the depletions in Table 1 or the inflow from Apex/Jackson and Lena Gulches

[10] Equals the flow rate of bypassed HCU credit at the Kershaw Ditch headgate based on Consolidated Case Nos 90CW215 and 91CW047

[11] Equals [10] x 1 9835 acre-feet/day/cfs

[12] Winter return flow obligations based on Consolidated Case Nos 90CW215 and 91CW047

[13] If the Kershaw Ditch water rights are in priority and no call exists between the point of delivery and point of depletion on Clear Creek Approval from the Water Commissioner is also required prior to exchange

[14 a] and [14 b] Equals total volume of Kershaw Ditch credits exchanged to storage in Magic Mountain Reservoir or the Spec Ag Pit Water exchanged to the reservoirs is equal to the lesser of the supply minus the depletions in Table 1 or the inflow from Apex/Jackson and Lena Gulches

[15] Equals the flow rate of bypassed HCU credit at the Manhart Ditch headgate based on Consolidated Case Nos 90CW215 and 91CW047

[16] Equals [15] x 1 9835 acre-feet/day/cfs

[17] Winter return flow obligations based on Case Nos 90CW215 and 91CW047

[18] If the Manhart Ditch water rights are in priority and no call exists between the point of delivery and point of depletion on Clear Creek Approval from the Water Commissioner is also required prior to exchange

[19 a] and [19 b] Equals total volume of Manhart Ditch credits exchanged to storage in Magic Mountain Reservoir or Spec Agg Pit Water exchanged to the reservoirs is equal to the lesser of the supply minus the depletions in Table 1 or the inflow from Apex/Jackson and Lena Gulches

[20] Martin Marietta has leased a total of 101 7 acre-feet per year of replacement water from Coors for the replacement of depletions and non-irrigation season return flow requirements

[21] The Coors Lease water is delivered at a location between McIntyre street and I-70, approximately 3 miles from the confluence of Lena Gulch and Clear Creek (Spec Agg Quarry point of depletions/replacement), approximately 6 miles from the Fenton Plant point of depletions and approximately 7 5 miles from the return flow point of replacement Transit losses are assumed to by 0 50% per mile unless otherwise specified by the Water Commissioner or Division Engineer Therefore, for Coors Lease water used to make replacements for Spec Agg Quarry depletions a 1 5% transit loss is assessed Lease water used to replace Fenton Plant depletions is assessed a 3% transit loss Lease water used to replace historical return flows is assessed a 3 75% transit loss

[22] Equals ([20] - [21]) x 1 9835 acre-feet/day/cfs

[23] If no call exists between the point of delivery of the Coors Lease water on Clear Creek and Magic Mountain Reservoir then water may be exchanged to Magic Mountain Reservoir or Spec Agg Pit Approval from the Water Commissioner is also required prior to exchange

[24 a and 24 b] Equals total volume of Coors Lease water exchanged to storage in Magic Mountain Reservoir or Spec Agg Pit Water exchanged to the reservoirs is equal to the lesser of the supply minus the depletions in Table 1 or the inflow from Apex/Jackson and Lena Gulches

* Total excess credit exchanged to Magic Mountain Reservoir or Spec Agg Pit is equal to the lesser of the total supply ([6] + [11] + [16] + [22]) minus depletions or the combined inflow in Columns [1] through [4] Exchange rates for the Fisher Ditch, Kershaw Ditch and Manhart Ditch are also limited to flow rates of 0 53 cfs, 0 08 cfs and 0 05 cfs respectively

Exhibit 1
Sample Accounting - Table 3
Case No. 13CW3053
Martin Marietta
Specification Aggregates
Magic Mountain Reservoir Daily Operations
(all values in acre-feet)

[illegible]

Notes:

[1] Inflow data is based on average daily inlet flume measurements provided by Martin Marietta

[2] Inflow data is based on totalizing flow meter values from the pit discharge pump provided by Martin Marietta. Water pumped from Jackson Gulch is pumped from the Spec Agg Pit.

[3] Inflow data is provided by Martin Marietta

[4] Inflow data is provided by Martin Marietta

[5] Equals [1] + [2] + [3] + [4]

[6] Based upon the end of previous day volume calculated for Magic Mountain Reservoir in [13]

[7] Total water use from Magic Mountain Reservoir based upon evaporation, plant usage and dust suppression usage values calculated in Table 1. Water use is divided into water used from water stored under exchange and water stored in priority.

[8] Flows released from Magic Mountain Reservoir by spilling over the spillway All water spilled from Magic Mountain Reservoir is divided into water used from water stored under exchange, water stored in priority or other water

[9] Flows released from Magic Mountain Reservoir through the reservoir outlet structure All water released from Magic Mountain Reservoir is divided into water used from water stored under exchange, water stored in priority or other water

[10] Equals [7] + [8] + [9]

[11] Equals all inflows in Column [5] which are stored in Magic Mountain Reservoir. All inflows stored in Magic Mountain Reservoir are divided into water stored under exchange, water stored in priority or other water stored

[12] Equals [10] + [11]

[13] Equals any storage pumped to or from the Spec Agg Pit. The combined storage of water in Magic Mountain Reservoir and Spec Agg Pit under the Magic Mountain Reservoir priorities is limited to 147 acre feet per year.

[14] Equals [6] + [12] + [13]

* All water stored "under exchange" is exchanged and stored using historical ditch HCU credits or Coors lease water as shown in Table 2

Exhibit 1
Sample Accounting - Table 4
Case No. 13CW3053
Martin Marietta
Specification Aggregates
Spec Agg Pit Daily Operations
(all values in acre-feet)

Month																																				
Day	Inflows					BOD Storage				Water Use			Water Released				Total Outflows				Stored Inflows				Change in Storage				Storage to/from MMR				EOD Storage			
	Inflow from Apex Gulch	Inflow from Jackson Gulch	Inflow from Lena Gulch Feeder Ditch Diversion	Inflow from Lena Gulch Feeder Ditch Diversion	Total Inflows	Total	Under Exchange	In-Priority	Other	Total	From Storage Under Exchange	From Water Stored In-Priority	Total	From Stored Under Exchange	From Water Stored In-Priority	Other	Total	From Stored Under Exchange	From Water Stored In-Priority	Other	Total	Under Exchange	In-Priority	Other	Total	Under Exchange	In-Priority	Other	Total	From Storage Under Exchange	From Water Stored In-Priority	Other	Total	Under Exchange	In-Priority	Other
	[1]	[2]	[3]	[4]	[5]	[6.a.]	[6.b.]	[6.c.]	[6.d.]	[7.a.]	[7.b.]	[7.c.]	[8.a.]	[8.b.]	[8.c.]	[8.d.]	[9.a.]	[9.b.]	[9.c.]	[9.d.]	[10.a.]	[10.b.]	[10.c.]	[10.d.]	[11.a.]	[11.b.]	[11.c.]	[11.d.]	[12.a.]	[12.b.]	[12.c.]	[12.d.]	[13.a.]	[13.b.]	[13.c.]	[13.d.]
1																																				
2																																				
3																																				
4																																				
5																																				
6																																				
7																																				
8																																				
9																																				
10																																				
11																																				
12																																				
13																																				
14																																				
15																																				
16																																				
17																																				
18																																				
19																																				
20																																				
21																																				
22																																				
23																																				
24																																				
25																																				
26																																				
27																																				
28																																				
29																																				
30																																				
31																																				
Total																																				

Notes:
[1] Inflow data provided by Martin Marietta.
[2] Inflow data to be based on daily staff gage readings and stage-area-capacity curve.
[3] Inflow data is provided by Martin Marietta.
[4] Inflow data is provided by Martin Marietta.
[5] Equals [1] [2] [3] [4].
[6] Based upon the end of previous day volume calculated for Spec Agg Pit in [13].
[7] Total water use from Spec Agg Pit based upon evaporation, plant usage and dust suppression usage values calculated in Table 1. Water use is divided into water used from water stored under exchange and water stored in priority.
[8] Flows released from Spec Agg Pit by pumping water out of the pit. All water released from the Spec Agg Pit is divided into water used from water stored under exchange, water stored in priority or other water.
[9] Equals [7] [8].
[10] Equals all inflows in Column [5] which are stored in Spec Agg Pit. All inflows stored in Spec Agg Pit are divided into water stored under exchange, water stored in priority or other water stored.
[11] Equals [9] [10].
[12] Equals any pumped from or to Magic Mountain Reservoir. The combined storage of water in Magic Mountain Reservoir and Spec Agg Pit under the Magic Mountain Reservoir priorities is limited to 147 acre feet per year.
[13] Equals [6] [11] [12].
* All water stored "under exchange" is exchanged and stored using historical ditch HCU credits or Coors lease water as shown in Table 2.

Exhibit 1
Sample Accounting - Table 5
Case No. 13CW3053
Martin Marietta
Specification Aggregates
Daily Water Balance Accounting
(all values in acre-feet)

Month																					
		Depletions				HCU Credits				Coors Lease Water						Storage Releases					
Day	Call	Total Depletions	Total Depletions Requiring Replacement	Total Return Flow Requirement	Total Return Flows Requiring Replacement	HCU Credit	HCU Credit to Storage in MMR by Exchange	HCU Credit to Storage in Spec Agg Pit by Exchange	HCU Credit used for Replacement	Amount Leased from Coors	Coors Lease Transit Losses	Net Replacement from Coors Lease	Coors Lease Credit to Storage in MMR by Exchange	Coors Lease Credit to Storage in Spec Agg by Exchange	Coors Lease Credit used for Replacement	MMR Releases of Exchanged Water for Replacement	Spec Agg Pit Releases of Exchanged Water for Replacement	In-Priority Water Released from MMR for Replacement	In-Priority Water Released from Spec Agg Pit for Replacement	Net Effect to Clear Creek	
	[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]	[11]	[12]	[13]	[14]	[15]	[16]	[17]	[18]	[19]	[20]	
1																					
2																					
3																					
4																					
5																					
6																					
7																					
8																					
9																					
10																					
11																					
12																					
13																					
14																					
15																					
16																					
17																					
18																					
19																					
20																					
21																					
22																					
23																					
24																					
25																					
26																					
27																					
28																					
29																					
30																					
31																					
Total																					

Notes:

- [1] Call from CDSS or the Water Commissioner
- [2] Equal to total depletions calculated in Table 1
- [3] Equal to [2] if a call is listed in [1] If there is no call, the depletions requiring replacement are equal to zero
- [4] Total return flow obligations are the sum of Columns [7], [12] and [17] of Table 2
- [5] Equal to [4] if a call is listed in [1] If there is no call, the return flows requiring replacement are equal to zero
- [6] HCU credits available from the Fisher, Kershaw and Manhart Ditches based upon the sum of Columns [6], [11] and [16] of Table 2
- [7] HCU credits exchanged to storage in Magic Mountain Reservoir calculated in Columns [9 a], [14 a] and [19 a] of Table 2
- [8] HCU credits exchanged to storage in Spec Agg Pit calculated in Columns [9 b], [14 b] and [19 b] of Table 2
- [9] Equal to [6] - [7] - [8]
- [10] Total water released from Coors per lease agreement
- [11] The Coors Lease water is delivered at a location between McIntyre street and I-70, approximately 3 miles from the confluence of Lena Gulch and Clear Creek (Spec Agg Quarry point of depletions/replacement), approximately 6 miles from the Fenton Plant point of depletions and approximately 7.5 miles from the return flow point of replacement. Transit losses are assumed to be 0.50% per mile. Therefore, for Coors Lease water used to make replacements for Spec Agg Quarry depletions a 1.5% transit loss is assessed. Lease water used to replace Fenton Plant depletions is assessed a 3% transit loss. Lease water used to replace historical return flows is assessed a 3.75% transit loss.
- [12] Equal to [10] - [11]
- [13] Coors Lease water exchanged to storage in Magic Mountain Reservoir calculated in Column [24 a] of Table 2
- [14] Coors Lease water exchanged to storage in the Spec Agg Pit calculated in Column [24 b] of Table 2
- [15] Equal to [12] - [13] - [14]
- [16] Releases of water stored by exchange in Magic Mountain Reservoir as shown in Column [9 b] of Table 3
- [17] Releases of water stored by exchange in Spec Agg Pit as shown in Column [8 b] of Table 4
- [18] Releases of water stored in-priority in Magic Mountain Reservoir as shown in Column [9 c] of Table 3
- [19] Releases of water stored in-priority in Spec Agg Pit as shown in Column [8 c] of Table 4
- [20] Equal to [3] + [5] + [9] + [15] + [16] + [17] + [18] + [19]

Exhibit 1
Sample Accounting - Table 6
Case No. 13CW3053
Martin Marietta
Specification Aggregates
Monthly Net Water Balance
(all value in acre-feet)

Month	Total Depletions	Total Depletions Requiring Replacement	Total Return Flow Requirement	Total Return Flows Requiring Replacement	HCU Credit	HCU Credit to Storage by Exchange	HCU Credit used for Replacement	Amount Leased from Coors	Coors Lease Transit Losses	Net Replacement from Coors Lease	Coors Lease Credit to Storage by Exchange	Coors Lease Credit used for Replacement	Magic Mountain Reservoir Releases for Replacement	Water Released from Spec Agg Pit for Replacement	Net Effect to Clear Creek
	[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															
Total															
Total Nov-Mar															
Total Apr-Oct															

Notes:

- [1] Total monthly depletions calculated from Column [2] of Table 5 daily values
[2] Total monthly depletions requiring replacement calculated from Column [3] of Table 5 daily values
[3] Total return flow requirement calculated from Column [4] of Table 5 daily values
[4] Total monthly return flows requiring replacement calculated from Column [5] Table 5 daily values
[5] Total monthly HCU credit calculated from Column [6] of Table 5 daily values
[6] Total HCU credits sent to storage by exchange calculated from Columns [7] and [8] of Table 5 daily values
[7] Total HCU credits used for replacement of depletions calculated from Column [9] of Table 5 daily values
[8] Total monthly Coors Lease water delivered by Coors calculated from Column [10] of Table 5 daily values
[9] Total transit loss on the Coors replacement water as calculated in Colum [11] of Table 5 daily values
[10] Coors Lease water used for replacement, after the reduction of transit loss, calculated from Column [11] of Table 5 daily values
[11] Total Coors Lease water sent to storage by exchange calculated from Columns [13] and [14] of Table 5 daily values
[12] Total Coors Lease water used for replacement of depletions calculated from Column [15] of Table 5 daily values
[13] Total Magic Mountain Reservoir releases for credit calculated from Columns [16] and [18] of Table 5 daily values
[12] Total Spec Agg Pit releases for credit calculated from Column [17] and [19] of Table 5 daily values
[13] Equal to [2] + [4] + [7] + [12] + [13] + [14]

Sample Accounting - Table 7
Case No. 13CW3053
Martin Marietta
Specification Aggregates
Daily Water Rights Priority Tabulation

	FISHER In Priority?	MANHART In Priority?			KERSHAW In Priority?	APEX GULCH In Priority?	JACKSON GULCH In Priority?	LENA GULCH In Priority?	MAGIC MOUNTAIN RES In Priority?	LENA GULCH NO In Priority?	SPEC AGG PIT In Priority?
Appropriation Date	6/29/1861	8/31/1860	6/20/1862	6/30/1864	5/2/1861	12/28/1990	12/28/1990	12/28/1990	12/28/1990	12/31/2016	12/31/2016
Max Limit (cfs)	0 53	0 003125	0 00078125	0 04609375	0 08	3	(trib to Apex)	2	-	2	-
Admin Number	4198	3896	4554	5295	4140	51496	51496	51496	51496	51496	51496
1/1/16											
1/2/16											
1/3/16											
1/4/16											
1/5/16											
1/6/16											
1/7/16											
1/8/16											
1/9/16											
1/10/16											
1/11/16											
1/12/16											
1/13/16											
1/14/16											
1/15/16											
1/16/16											
1/17/16											
1/18/16											
1/19/16											
1/20/16											
1/21/16											
1/22/16											
1/23/16											
1/24/16											
1/25/16											
1/26/16											
1/27/16											
1/28/16											
1/29/16											
1/30/16											
1/31/16											
2/1/16											
2/2/16											
2/3/16											
2/4/16											
2/5/16											
2/6/16											
2/7/16											
2/8/16											
2/9/16											
2/10/16											
2/11/16											
2/12/16											
2/13/16											
2/14/16											
2/15/16											
2/16/16											
2/17/16											
2/18/16											
2/19/16											
2/20/16											
2/21/16											
2/22/16											
2/23/16											
2/24/16											
2/25/16											
2/26/16											
2/27/16											
2/28/16											
2/29/16											
3/1/16											
3/2/16											
3/3/16											
3/4/16											
3/5/16											
3/6/16											
3/7/16											
3/8/16											
3/9/16											
3/10/16											
3/11/16											
3/12/16											
3/13/16											
3/14/16											
3/15/16											