

August 7, 2019

Robert Burger
Sierta, LLC

Elliott Russell
Colorado Division of Reclamation, Mining and Safety
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203

Re: Response to Deficiencies, MD-01, P-2014-003

Elliott:

Here is the last of our responses (Item 7, Please discuss if water will be used in this operation and provide the legal source of this water) to complete the Response to Deficiencies for the Project at Red Cone Peak. MD-01, P-2014-003.

7. Water for drilling operations will be pumped or gravity fed from Handcart Gulch via a plastic or rubber pipe to the drill pads. No artificial dam or obstruction of natural flow will occur. Totalizing meter(s) will be placed along the water line. Water usage readings will be collected daily and reported to the water commissioner on a weekly basis. Approximately, 144,000 gallons of water will be used per drill rig over the duration of the project. This will result in less than one acre foot of water withdrawn from Handcart Gulch over the duration of the project. We have contracted with Mountain Mutual Reservoir Company and North Fork Associates (MMRC/NFA) to lease 1.5 acre-feet of water from the start of the project through October 31, 2019. A copy of the lease is attached.

IF you have any questions, concerns or need anything else to complete the work at your end, I can be reached at r.burger@verizon.net or 412-818-5659.

Thanks and all the best,

A handwritten signature in black ink that reads "Robert M. Burger". The signature is written in a cursive, flowing style.

Robert Burger

Managing Partner,
Sierta, LLC

AGREEMENT

1. **PARTIES:** This Agreement is made and entered into this 6th day of August, 2019, in duplicate counterpart originals, by and between Sierta, LLC, (hereinafter referred to as "the Lessee"), and NORTH FORK ASSOCIATES, LLC, a Colorado Limited Liability Company and MOUNTAIN MUTUAL RESERVOIR COMPANY, a mutual company, (hereinafter referred to as "the Lessors").

2. **RECITALS AND PURPOSE:** The Lessee proposes to satisfy the needs for replacement water in Hand Cart Gulch, a tributary of the North Fork of the South Platte River, located in Park County, Colorado. To assure that sufficient water can be available for drilling associated with Lessee's operation, the Lessee seeks to lease replacement water on an interim basis.

Lessors are the owners of the following water rights:

MADDOX RESERVOIR

The Maddox Reservoir is located in the NE1/4 SW1/4, Section 22, Township 7 South, Range 73 West of the 6th P.M. in Park County. It was adjudicated on November 11, 1971 with an appropriation date of May 31, 1905. It is decreed for multiple purposes including irrigation, domestic, fish culture and recreation with a capacity of 54.0 acre-feet. It is filled by the Maddox Reservoir Feeder Ditch, which diverts from the North Fork of the South Platte River in the NE1/4 SE1/4 SW1/4, Section 22, Township 7 South, Range 73 West of the 6th P.M. and decreed as an alternate point of diversion for the Slaght Ditch.

SLAGHT DITCH

The Slaght Ditch, with a South Platte Priority No. 241 and North Fork Drainage Priority No. 4 has an appropriation date of May 1, 1863 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 2.0 cubic-feet-per-second. The headgate is located on the North Bank of the North Fork of the South Platte River in the NE ¼ SE ¼, Section 21, Township 7 South, Range 732 West of the 6th P.M. This headgate is still used for irrigation of the land North of Highway 285. In Case No. 82CW472 an alternate point of diversion was established at the headgate of the Maddox Feeder Ditch in the NE ¼ SE ¼, Section 21, Township 7 South, Range 73 West of the 6th P.M. Lessors interest in this right is 0.481 of a cubic-foot-per-second which is quantified in Water Court Case No. 2003CW238.

MACK DITCH NO. 2

The Mack Ditch No. 2, with a South Platte Priority No. 243 and North Fork Drainage Priority No. 6 has an appropriation date of May 1, 1863 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 1.0 cubic-feet-per-second. The headgate is located on the South Bank of the North Fork of the South Platte River in the NE ¼ SE ¼, Section 21, Township 7 South, Range 732 West of the 6th P.M. Lessors interest in this right is 0.44045 of a cubic-foot-per-second which is quantified in Water Court Case No. 2003CW238.

NICKERSON NO. 2 DITCH

The Nickerson No. 2 Ditch, with a South Platte Priority No. 262 and North Fork Drainage

Priority No. 24 has an appropriation date of May 1, 1872 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 0.65 of a cubic-foot-per-second. The headgate is located on the North bank of Deer Creek at a point whence the SE Corner, Section 4, Township 7 South, Range 72 West of the 6th P.M., bears North 58°15' East, 2320 feet and has historically irrigated approximately 35 acres adjacent to Dear Creek in the SE1/4 Section 9, NW1/4 Section 15, and NE1/4, Section 16, Township 7 South, Range 72 West of the 6th P.M. all in Park County.

PARMELEE NO. 1 DITCH

The Parmelee No. 1 Ditch, with a South Platte Priority No. 251 and North Fork Drainage Priority No. 14 has an appropriation date of May 1, 1867 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 0.52 of a cubic-foot-per-second. In that decree the headgate was located on the North Bank of Deer Creek at a point whence the S1/4 Corner of Section 32, Township 6 South, Range 72 West of the 6th P.M., bears South 70° 6' East, 1210 feet. Water Division No. 1 District Court Case No. W-7434 changed the location of the headgate to the Nickerson No. 2 Ditch, as shown above.

CARRUTHERS NO. 2 DITCH

The Carruthers No. 2 Ditch, with a South Platte Priority No. 250 and North Fork Drainage Priority No. 13 has an appropriation date of May 1, 1967 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 0.52 of a cubic-foot-per-second. In that decree the headgate was located on the North Bank of Deer Creek at a point whence the S1/4 Corner between Section 31 and 32, Township 6 South, Range 72 West of the 6th P.M., bears North 85° 30' East, 1398 feet. Water Division No. 1 District Court Case No. W-7434 changed the location of the headgate for 0.28 of a cubic-foot-per-second to the Nickerson No. 2 Ditch, as shown above. This 0.28 of a cubic-foot-per-second is included in this contract.

Pursuant to the Decree issued in Case No. 2000CW174, dated October 11, 2002, the historic consumptive use associated with the Nickerson No 2, Parmelee No. 1, and Carruthers No. 2 Ditches (hereinafter referred to as "Nickerson Ditch Rights") was quantified.

GUIRAUD 3T DITCH

The headgate is located on the right bank of the Middle Fork of the South Platte River in the Northeast 1/4 of Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point whence the Northeast corner of the Northeast 1/4 of said section bears North 63 degrees 35 minute East, 1,305 feet. Lessor owns 3.481 c.f.s. of the water rights decree to the Guiraud 3T Ditch as follows:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount (c.f.s)</u>
October 18, 1889	July 1, 1867	20
Original adjudication Water Dist. 23		

LOWER SACRAMENTO CREEK RESERVOIR COMPANY

The Lower Sacramento Creek Reservoir Company, a Colorado corporation, owns and operates the Lower Sacramento Creek Reservoir No. 1. The Reservoir is located in the Northeast 1/4 Northwest 1/4, Section 32, and the Southeast 1/4 Southwest 1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County, Colorado. Seller/MMRC owns 772 shares of a total of 3,540 shares in the Company (a 21.8% interest). The Reservoir has been constructed and is entitled to store water under the following decree:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount</u>
1974; Case No. W-7741-74	July 25, 1974	40 a.f.
Case No. 84CW250	Use of Res. as Recharge Facility	
Case No. 85CW465	Use of Res. as Recharge Facility	

The water may be used for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River and its tributaries. Other ownerships in the reservoir have transferred water rights to Lower Sacramento Creek Reservoir No. 1 in which Seller has no interest.

Lessors are willing to lease water to the Lessee on a temporary basis. It is understood that the replacement water will be delivered at the headgates of the above referenced ditches and the outlets of the above referenced reservoirs, and that such replacement water will be used as substitute supply in an administratively approved exchange. When a call is administered on Handcart Gulch or on the North Fork South Platte River upstream from the structure or structures where Lessors deliver replacement water, Lessee will curtail diversions by exchange and notify Lessors to cease delivery of leased water, or alternatively, the leased water may be trucked to a release point upstream of the calling right. Lessors agree to cooperate with Lessee to facilitate trucking of the leased water if the water commissioner approves such operation, including but not limited to pumping from Maddox Reservoir or other structures identified above to fill water trucks.

3. **AGREEMENT FOR THE LEASE OF WATER:** In consideration of the covenants and agreements of the Lessors and the payments to be made by the Lessee, Lessors agree to lease water to the Purchaser pursuant to the following terms and conditions:

- a. **Quantity of Water:** Pursuant to this Agreement, the Lessee shall be entitled to receive 1.5 acre-feet of water which Lessors presently own and control as set forth in Paragraph 2 above. Lessee has the option of leasing an additional 20.0 acre-feet pursuant to the terms below.
- b. **Compensation to Lessors:** As compensation for the lease of water as described herein, the Lessee agrees to pay to the order of North Fork Associates, \$1,200 for 1.5 acre-feet of water, upon both parties signing this agreement. If additional water is needed it will be at \$330 per acre-foot.
- c. **Term of Water Lease:** The effective period of the Agreement shall be the date of execution through October 31, 2019.
- d. **Responsibilities of the Parties:** The Lessee shall have the responsibility of notifying Lessors when all or a portion of the water described herein is to be

released to the North Fork of the South Platte River from any of the above described facilities. To the extent physically possible, Lessors agree to make said water available, at those times and locations and at rates previously agreed upon or as requested by the Water Commissioner. Notification of the requested release must be received between 8:00 A.M. and 5:00 P.M. Monday through Friday. Water availability is subject to the down stream calls and the exchange potential on the North Fork of the South Platte River.

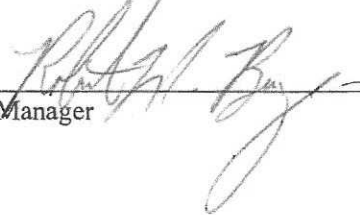
- f. **Notice:** Whenever the terms of this Agreement require notice to be given to Lessors or Lessee, said notice shall be sufficient if given verbally to:

North Fork Associates
2686 S. Yukon Ct
Lakewood, CO 80227
303 988 7111

____ lessee _____

DATED this ____ day of August, 2019

SIERTA, LLC



Manager

MOUNTAIN MUTUAL RESERVOIR COMPANY



Secretary/Treasurer

NORTH FORK ASSOCIATES



Manager