

Consent Agenda Item 1.a

November 20-21, 2019 Board Meeting

Case No. 19CW3154 (Water Division 1); Mountain Mutual Reservoir Company

Water Court Application

Application to Add Replacement Supplies and for Approval of Appropriative Rights of Substitution and Exchange.

Staff Recommendation

Staff recommends that the Board ratify the September 2019 filing of a Statement of Opposition filed on behalf of the Board to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds many instream flow water rights in Water Division 1 that could be injured by this application. Instream flow water rights that may be injured cannot be specifically identified because the proposed place of use includes undefined locations by agreements with others.

Potential for Injury

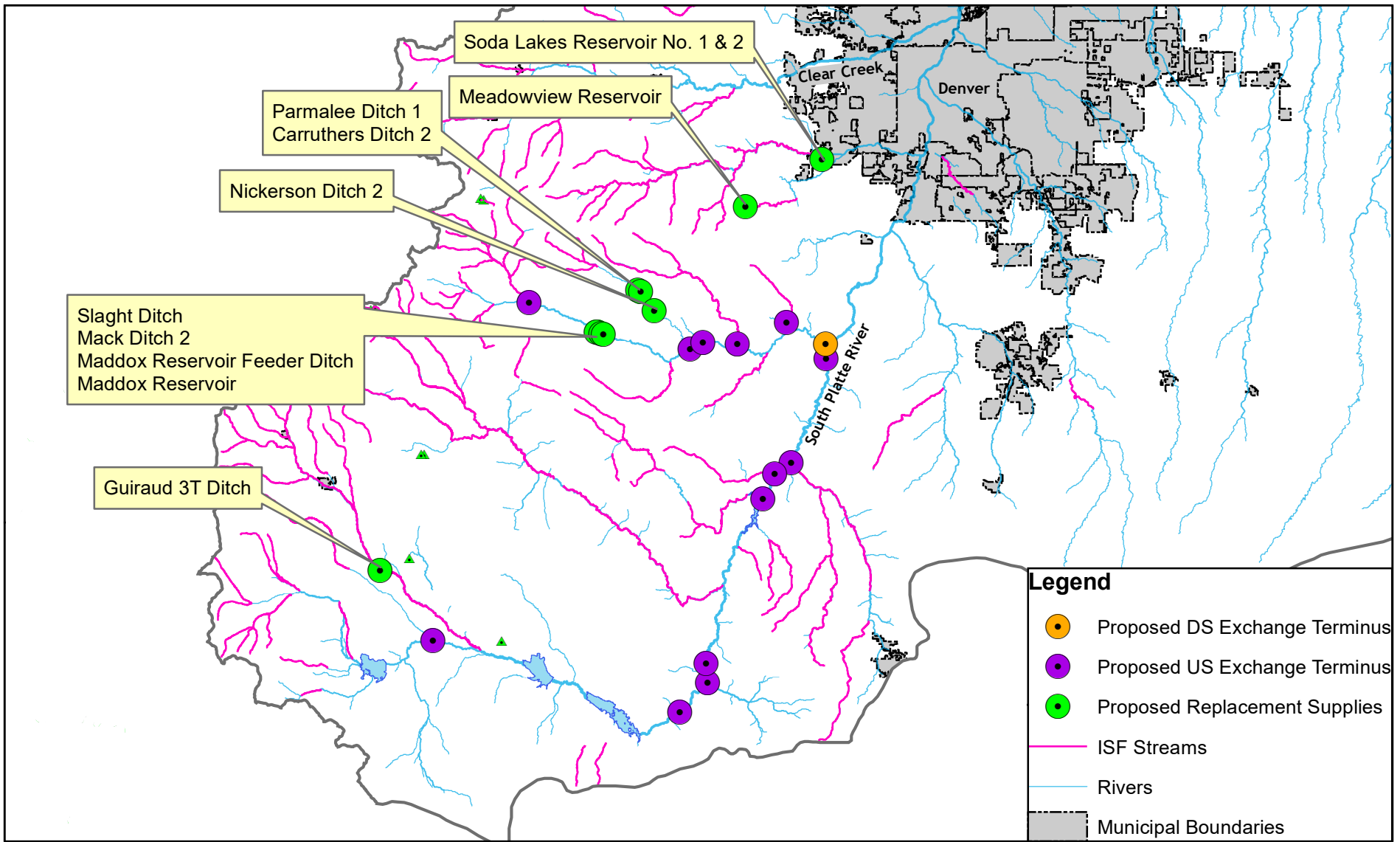
- The addition of the proposed replacement supplies into the numerous previously decreed plans for augmentation listed in the application and the claimed appropriative rights of substitution and exchange may not replace depletions in the proper time, place and amount and may injure the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition were also filed by Bergen Ditch and Reservoir Company, City and County of Denver Board of Water Commissioners, City of Aurora, Foothills Park and Recreation District, Genesee Water & Sanitation District, Girl Scouts of Colorado, Headwater Authority of the South Platte, Park County Board of County Commissioners, Red Rocks Country Club, State Engineers Office, The Joseph W. Bowles Reservoir Company, Grant Properties I LLLP, and Grant Reservoir Company, and Town of Morrison.

Attorney Representing CWCB

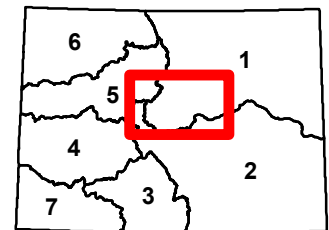
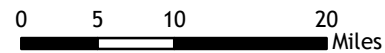
Christopher R. Stork, Assistant Attorney General, is assigned to this case and can be contacted at christopher.stork@coag.gov, or 720-508-6311.



**COLORADO**  
**Colorado Water Conservation Board**

Department of Natural Resources

November 20 - 21, 2019 CWCB Board Meeting  
 Consent Agenda Item 1.a: Statement of Opposition  
 Case No. 19CW3154, Div 1  
 Mountain Mutual Reservoir Company



**DISTRICT COURT, WATER DIVISION 1, COLORADO JULY 2019 WATER RESUME PUBLICATION**

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TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN WATER DIV. 1  
Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications and certain amend Clerk during the month of JULY 2019 for each County affected.

**19CW3154 MOUNTAIN MUTUAL RESERVOIR COMPANY, 6949 Highway 73, Suite 15, Evergreen, CO 80439** (Please address all pleadings and correspondence to Applicant’s attorney: John J. Cyran, Confluence Water Law, LLC, 3570 East 12<sup>th</sup> Avenue, Suite 311, Denver, CO 80206; (303) 746-3802.) **APPLICATION FOR TO ADD REPLACEMENT SUPPLIES AND FOR APPROVAL OF APPROPRIATIVE RIGHTS OF SUBSTITUTION AND EXCHANGE IN PARK AND JEFFERSON COUNTIES**: Applicant, Mountain Mutual Reservoir Company (“Mountain Mutual”), by and through undersigned counsel, hereby submits this Application to Add Replacement Supplies and for Approval of Appropriative Rights of Substitution and Exchange (“Application”). In support of this Application, Mountain Mutual states as follows: **Summary of Application.** Mountain Mutual is a nonprofit Colorado corporation which has been created for the following principal purposes: (1) To receive and hold title to direct flow and storage water rights, reservoirs and interests therein, lands, easements, rights-of-way, and other related facilities, in trust for its shareholders; and (2) To administer water rights and operate facilities for its shareholders, in accordance with individual plans for augmentation approved by the Water Court. Accordingly, Mountain Mutual currently administers the release of augmentation water supplies in the connection with numerous individual plans for augmentation operated for the benefit of Mountain Mutual shareholders. By this Application, Mountain Mutual seeks water court authorization pursuant to C.R.S. §37- 80-120 and §37-92-302(1)(a) to add certain water rights owned by Mountain Mutual and previously decreed for augmentation use as additional sources of replacement supply for previously decreed individual plans for augmentation, thus increasing the reliability and simplifying the administration of these plans. In addition, where use of these water rights as an additional replacement source under an augmentation plan would result in the creation of a new substitution and exchange, Mountain Mutual by this Application seeks water court approval of a corresponding appropriative right for such substitution and exchange. The following claims identify the water rights to be added as additional replacement supplies and the plans for augmentation for which the water rights will be added as an additional supply, as well as the downstream terminus (or “exchange-from point”), upstream terminus (or “exchange-to point”), and amounts of each new appropriative right of substitution and exchange for which Mountain Mutual seeks approval. **Claim No. 1: Application to Add Replacement Supplies – North Fork of South Platte River. A. Description of Claim.** Mountain Mutual administers for the benefit of its shareholders certain plans for augmentation, specifically identified at paragraph III.B. below, that rely upon the water rights identified in paragraph III.C. below as a replacement supply for diversions of water from the North Fork of the South Platte River and its tributaries, as more fully described in the identified plans for augmentation. By this claim, Mountain Mutual seeks authorization to substitute the water rights listed in paragraph III.D. below as additional replacement supplies for the identified augmentation plans. **B. Plans for Augmentation for which Named Water Rights are to be Added as Additional Replacement Supplies.**

**Attachment  
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1980CW050	1981CW129	1981CW144	1981CW145	1983CW124
1983CW323	1985CW110	1985CW326	1987CW148	1987CW200
1988CW013	1988CW060	1988CW102	1988CW205	1989CW079
1990CW063	1991CW119	1992CW074	1992CW087	1993CW144
1994CW192	1995CW012	1995CW055	1995CW150	1995CW290
1996CW1047	1996CW1048	1996CW122	1996CW143	1996CW160
1997CW375	1998CW022			

**C. Water Rights Currently Used as Replacement Sources for Augmentation Plans. 1. Guiraud 3T Right.** Mountain Mutual owns 3.297 cubic feet per second (“cfs”) of the water rights decreed to the Guiraud 3T Ditch water right a/k/a/ Guiraud 3T Rights (the “Guiraud 3T Right”), portions of which will be used to replace the out-of-priority depletions from the structures described herein. The Guiraud 3T Right was decreed a priority date of July 1, 1867, for 20 cfs s in the original adjudication for former Water District No. 23. The historic point of diversion for the Guiraud 3T Right was from the Middle Fork of the South Platte River in the NE1/4 of Section 8, Township 11 South, Range 76 West, 6th P.M., Park County. A decree authorizing a change of the point of diversion and place of use to the Guiraud Ditch was entered on May 15, 1954, in Civil Action No. 3376, by the Park County District Court. Past decrees have confirmed that 276.28 acres of hay meadows were historically irrigated, which have now been removed from irrigation, and that the consumptive use yield of the Guiraud 3T Right is 21.82 acre-feet per cfs. The Guiraud 3T Right owned by Mountain Mutual is either left in the stream system to offset stream depletions associated with water usage by Mountain Mutual shareholders, or the water is stored in reservoirs available to Mountain Mutual. The Decree in Case No. 96CW287 adjudicated an exchange to storage, in the Lower Sacramento Creek Reservoir No. 1, of a portion of the Guiraud 3T Right. The exchange is identified as the MOUNTAIN MUTUAL Exchange No. 1 and has a priority date of October 15, 1996. **2. LSC Reservoir Right.** Mountain Mutual owns a 21.8 percent interest in the Lower Sacramento Creek Reservoir No. 1 (the “LSC Reservoir Right”). The LSC Reservoir Right is decreed 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 or its tributaries. It was decreed for 40 acre-feet of storage in Case No. W-7741-74, with an appropriation date of July 25, 1974. Lower Sacramento Creek Reservoir is located in the NE1/4 NW1/4 of Section 32 and the SE1/4 SW1/4 of Section 29, Township 9 South, Range 77 West, 6<sup>th</sup> P.M., Park County, Colorado. Releases from the Reservoir are made pursuant to the decrees issued in Case Nos. 85CW250 and 85CW465. **3. Spinney Mountain Reservoir.** Spinney Mountain Reservoir is located on the South Platte River, with the left abutment of the dam at a point whence the Southwest corner of Section 36, Township 12 South, Range 74 West, 6th P.M., Park County, Colorado, bears South 23°26' West a distance of 8314.3 feet. North Fork Associates/Mountain Mutual Reservoir Company have a deeded right from the City of Aurora for a firm annual delivery of 80 acre-feet from the water decreed to the Spinney Mountain Reservoir including but not limited to the following: water from Case No. W-7395, with Appropriation Date of March 26, 1973, in the amount of 86,000 acre-feet. Such waters are decreed for domestic, irrigation, municipal and all other beneficial uses. As stated in a special warranty deed dated March 23, 1987, recorded in Park County on May 29, 1987, at Book 411, Page 876, from the City of Aurora, grantor, to Seller and Reservoir Company, grantees, the supply of water which is lawfully available to the Seller and subject to this Agreement includes an undivided interest in the right of first use of a firm yield of 80 acre-feet of water per annum from "any of the water rights owned by Aurora and decreed for storage in Spinney Mountain Reservoir." **D. Water Rights to be Added as Additional Replacement Supplies. 1. Nickerson Ditch Rights.** Mountain Mutual owns certain water rights, the point of diversion for which is the headgate of the Nickerson Ditch (hereinafter the

"Nickerson Ditch Rights"), which rights Mountain Mutual proposes to use as a replacement supply as described herein. **a)** Nickerson Ditch No. 2. In accordance with the Decree entered in Civil Action No. 1678 of the Park County District Court, on May 22, 1913, the Nickerson Ditch No. 2 was awarded a direct flow priority of May 1, 1872, for 0.65 of a cubic foot per second for irrigation purposes. The source of water is Deer Creek, a tributary of the North Fork of the South Platte River. The headgate of the Nickerson Ditch No. 2 is located on the North bank of Deer Creek at a point whence the East quarter corner of Section 9, Township 7 South, Range 72 West, of the 6th P.M., bears North 59° 15' East, a distance of 2,320 feet, more or less. **b)** Parmalee Ditch No. 1. In accordance with the Decree entered in Civil Action No. 1678 of the Park County District Court, on May 22, 1913, the Parmalee Ditch No. 1 was awarded a direct flow priority of May 1, 1867, for 0.52 of a cubic foot per second for irrigation purposes. The source of water is Deer Creek, a tributary of the North Fork of the South Platte River. Pursuant to a decree entered by the District Court for Water Division 1 in Case No. W-7434, on May 5, 1980, the point of diversion for the Parmalee Ditch No. 1 was transferred to the headgate of the Nickerson Ditch No. 2. **c)** Carruthers Ditch No. 2. In accordance with the Decree entered in Civil Action No. 1678 of the Park County District Court, on May 22, 1913, the Carruthers Ditch No. 2 was awarded a direct flow priority of May 1, 1867, for 0.52 of a cubic foot per second for irrigation purposes. The source of water is Deer Creek, a tributary of the North Fork of the South Platte River. MOUNTAIN MUTUAL owns 0.28 of a cubic foot per second of the direct flow priority. Pursuant to a decree entered by the District Court for Water Division 1 in Case No. W-7434, on May 5, 1980, the point of diversion for the 0.28 of a cubic foot per second decreed to the Carruthers Ditch No. 2 was transferred to the headgate of the Nickerson Ditch No. 2. **d)** Pursuant to the Decree issued in Case No. 2000CW174, dated October 11, 2002, the historic consumptive use associated with the Nickerson Ditch Rights was quantified, and the terms and conditions under which the Nickerson Ditch Rights may be used for augmentation, replacement, exchange and storage purposes were defined and approved. Reference is made to the Decree in Case No. 2000CW174 for more detailed information. **Slaght Ditch Rights.** Mountain Mutual owns water rights decreed to the Slaght Ditch and the Mack Ditch No. 2 ("Slaght Ditch Rights"), portions of which will be used as a replacement supply as described herein. The Slaght Ditch Rights have a priority date of May 1, 1863 and were decreed in the original adjudication for former Water District No. 23 by the Park County District Court, on May 22, 1913, in Civil Action No. 1678. Historically, the Slaght Ditch Rights were diverted from the North Fork of the South Platte River in the SE1/4 of Section 21 and the SW1/4 of Section 22, Township 7 South, Range 73 West, 6th P.M., Park County. The terms and conditions under which the Slaght Ditch water rights are used for augmentation, replacement and storage purposes are described in the Decrees entered by the District Court for Water Division 1 in Case No. 2003CW238, dated October 26, 2006, and Case No. 2016CW3197, dated September 19, 2018 for more detailed information. **Maddox Reservoir Right.** The Maddox Reservoir is located in the NE1/4 SW1/4 of Section 22, Township 7 South, Range 73 West of the 6<sup>th</sup> 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 SW1/4 of Section 22, Township 7 South, Range 73 West of the 6<sup>th</sup> P.M. and is decreed as an alternate point of diversion for the Slaght Ditch. **E. No Claim for Appropriative Right of Substitution and Exchange.** The existing replacement sources identified in paragraph III.C. for the augmentation plans identified in paragraph III.B. are located on the South Platte River. The points of depletion for the augmentation plans identified in paragraph III.B. are on the North Fork of the South Platte River. The proposed substitute replacement sources described in paragraph III.D. above are located on the North Fork of the South Platte River, upstream of the points of depletion for the augmentation plans identified in paragraph III.B. Thus, use of the proposed substitute sources as additional replacement sources for the identified augmentation plans will not negatively impact any stream reaches. Accordingly, Mountain Mutual is not seeking approval of any additional appropriative rights of substitution and exchange as part of this claim. **CLAIM NO. 2: APPLICATION TO ADD REPLACEMENT SUPPLIES AND FOR RIGHT OF SUBSTITUTION AND EXCHANGE – SOUTH PLATTE RIVER: A. Description of Claim.** Mountain Mutual administers for the benefit of its shareholders certain plans for augmentation,

specifically identified at paragraph IV.B. below, that rely upon the water rights identified in paragraph IV.C. below as a replacement supply for diversions of water from the South Platte River and its tributaries, as more fully described in the identified plans for augmentation. By this claim, Mountain Mutual seeks authorization to add the water rights identified in paragraph IV.D. below as additional replacement supplies for the identified augmentation plans. **B. Plans for Augmentation for which Named Water Rights are to be Added as Additional Replacement Supplies.**

1985CW254	1986CW372	1993CW076	1993CW089	1994CW083
1994CW017	1994CW281	1995CW154	1996CW044	1996CW092
1996CW166	1996CW224	1996CW803	1997CW141	1998CW263
1998CW401	2000CW019	2002CW387	2012CW124	2017CW3037

**C. Water Rights Currently Used as Replacement Supplies for Augmentation Plans.** 1. Guiraud 3T Right, as described in paragraph III.C.1., above. 2. LSC Reservoir Right, as described in paragraph III.C.2., above. 3. Spinney Mountain Right, as described in paragraph III.C.4., above. **D. Water Rights to be Added as Additional Replacement Supplies.** 1. Nickerson Ditch Rights, as described in paragraph III.D.1, above. 2. Slaughter Ditch Rights, as described in paragraph III.D.2., above. 3. Maddox Reservoir Right, as described in paragraph III.D.3., above. **E. Claim for Appropriative Right of Substitution and Exchange.** The existing replacement supplies identified in paragraph IV.C. for the augmentation plans identified in paragraph IV.B are located on the South Platte River, above the confluence of the South Platte River and the North Fork of the South Platte River. The points of depletion for the augmentation plans identified in paragraph IV.B. are located above the confluence of the South Platte River and the North Fork of the South Platte River. The proposed additional replacement supplies identified in paragraph IV.D. above are located on the North Fork of the South Platte River, which enters the South Platte downstream of the points of depletion for the augmentation plans. Thus, use of the proposed additional replacement supplies for the identified augmentation plans will impact reaches along the South Platte River. Accordingly, Mountain Mutual requests approval of the following appropriative rights of substitution and exchange as part of this claim.

Downstream Terminus	Upstream Terminus	Amount
Confluence of North Fork South Platte with South Platte	Confluence of Horse Creek with South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Goose Creek with South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Spring Creek with South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Twin Creek with South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Wigwam Creek with South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Messenger Gulch with South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Pulver Gulch with South Platte	0.25 cfs, conditional

Confluence of North Fork South Platte with South Platte	Confluence of Twin Creek with South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Four Mile Creek with South Platte	0.25 cfs, conditional

**CLAIM NO. 3: APPLICATION TO ADD REPLACEMENT SUPPLY AND FOR RIGHT OF SUBSTITUTION AND EXCHANGE – NORTH FORK OF SOUTH PLATTE RIVER: A.**

**Description of Claim.** Mountain Mutual administers for the benefit of its shareholders certain plans for augmentation, specifically identified at paragraph V.B. below, that rely upon the water right identified in paragraph V.C. below as a replacement supply for diversions of water from the North Fork of the South Platte River and its tributaries, as more fully described in the identified plans for augmentation. By this claim, Mountain Mutual seeks authorization to add the water right listed in paragraph V.D. below as an additional replacement supply for the identified augmentation plans. **B. Plans for Augmentation for which Named Water Right is to be Added as Additional Replacement Supply.**

2003CW026	2003CW027	2003CW092	2003CW093	2003CW147
2003CW148	2003CW203	2003CW298	2003CW300	2003CW325
2003CW388	2003CW449	2004CW334	2005CW288	2006CW051
2006CW078	2006CW079	2006CW105	2008CW240	2012CW076
2014CW3029	2014CW3030	2016CW3091	2017CW3124	

**C. Water Right Currently Used as Replacement Supply for Augmentation Plans.** Nickerson Right, as described in paragraph III.C.1., above. **D. Water Right to be Added as Additional Replacement Supply.** Guiraud 3T Right, as described in paragraph III.C.1, above. **E. Claim for Appropriative Right of Substitution and Exchange.** The replacement supply identified in paragraph V.C. above is located on the North Fork of the South Platte River. The points of depletion for the augmentation plans identified in paragraph V.B. are located on North Fork of the South Platte River and its tributaries. The proposed additional supply is located on the South Platte River, which joints with the North Fork downstream of the depletion points for the augmentation plans. Thus, use of the additional replacement supply for the identified augmentation plans will impact certain stream reaches along the North Fork of the South Platte River. Accordingly, Mountain Mutual requests approval of the following appropriative rights of substitution and exchange as part of this claim:

<b>Downstream Terminus</b>	<b>Upstream Terminus</b>	<b>Amount</b>
Confluence of North Fork South Platte with South Platte	Confluence of Last Resort Creek with North Fork South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Elk Creek with North Fork South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Roland Gulch with North Fork South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Kenosha Gulch with North Fork South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Deer Creek (Chatfield) with North Fork South Platte	0.25 cfs, conditional

Confluence of North Fork South Platte with South Platte	Headgate of Nickerson Ditch Gulch with North Fork South Platte	0.25 cfs, conditional
Confluence of North Fork South Platte with South Platte	Confluence of Deer Creek (Park County) with North Fork South Platte	0.25 cfs, conditional

**CLAIM NO. 4: APPLICATION TO ADD REPLACEMENT SUPPLY – NORTH FORK OF SOUTH PLATTE RIVER: A. Description of Claim.** Mountain Mutual administers for the benefit of its shareholders certain plans for augmentation, specifically identified at paragraph VI.B. below, that rely upon the water right identified in paragraph VI.C. below as a replacement supply for diversions of water from the North Fork of the South Platte River and its tributaries, as more fully described in the identified plans for augmentation. By this claim, Mountain Mutual seeks authorization to add the water rights listed in paragraph VI.D. below as additional replacement supplies for the identified augmentation plans. **B. Plans for Augmentation for which Named Water Rights are to be Added as Additional Replacement Supplies.**

2003CW026	2003CW027	2003CW092	2003CW093	2003CW147
2003CW148	2003CW203	2003CW298	2003CW300	2003CW325
2003CW388	2003CW449	2004CW334	2005CW288	2006CW051
2006CW078	2006CW079	2006CW105	2008CW240	2012CW076
2014CW3029	2014CW3030	2016CW3091	2017CW3124	

**C. Water Rights Used as Replacement Supplies for Augmentation Plans.** Nickerson Right, as described in paragraph III.C.1., above. **D. Water Rights to be Added as Additional Replacement Sources. 1.** Slaght Ditch Rights, as described in paragraph III.D.2., above. **2.** Maddox Reservoir Right, as described in paragraph III.D.3., above. **CLAIM NO. 5: APPLICATION TO ADD REPLACEMENT SUPPLIES – SOUTH PLATTE RIVER: A. Description of Claim.** Mountain Mutual administers for the benefit of its shareholders certain plans for augmentation, specifically identified at paragraph VII.B. below, that rely upon the water rights described in paragraph VII.C. below as a replacement supply for diversions of water from the South Platte River and its tributaries, as more fully described in the identified plans for augmentation. By this claim, Mountain Mutual seeks authorization to add the waters rights listed in paragraph VII.D. below as additional replacement supplies for the identified augmentation plans. **B. Plans for Augmentation for which Named Water Rights are to be Added as Additional Replacement Supplies.**

2000CW192	2000CW194	2002CW242	2004CW185	
2003CW301	2004CW182	2005CW057	2005CW294	2006CW056
2006CW062	2006CW231	2006CW284	2006CW286	2007CW015
2007CW031	2007CW032	2007CW147	2012CW099	2016CW3125
2016CW3127	2016CW3166	2016CW3168		

**C. Water Right Currently Used as Replacement Supply for Listed Augmentation Plans.** Nickerson Ditch Rights, as described in paragraph III.D.1, above. **D. Name of Water Rights to be Added as Additional Replacement Supplies. 1.** Guiraud 3T Right, as described in paragraph III.C.1, above. **2.** Slaght Ditch Rights, as described in paragraph III.D.2., above. **3.** Maddox Reservoir Right, as described in paragraph III.D.3., above. **E. No Claim for Appropriative Right of Substitution and Exchange.** The



existing replacement source identified in paragraph VII.C. above is located on the North Fork of the South Platte River. The points of depletion for the augmentation plans identified in paragraph VII.B. are located on South Platte River and its tributaries. The proposed replacement supplies identified in paragraph VII.D. are located on North Fork of the South Platte River (the Slaght Ditch Rights and Maddox Reservoir Right) and on the South Platte River, upstream of the confluence of the South Platte and the North Fork of the South Platte (the Guiraud 3T Right). Thus, use of the additional replacement sources for the identified augmentation plans will not negatively impact any stream reaches. Accordingly, Mountain Mutual is not seeking approval of appropriative rights of substitution and exchange as part of this claim. **CLAIM NO. 6: APPLICATION TO ADD REPLACEMENT SUPPLIES – SOUTH PLATTE RIVER: A.**

**Description of Claim.** Mountain Mutual administers for the benefit of its shareholders certain plans for augmentation, specifically identified at paragraph VIII.B. below, that rely upon the water rights described in paragraph VIII.C. below as a replacement supply for diversions of water from the South Platte River and its tributaries, as more fully described in the identified plans for augmentation. By this claim, Mountain Mutual seeks authorization to add the waters right listed in paragraph VIII.D. below as an additional replacement supplies for the identified augmentation plans. **B. Plans for Augmentation for which Named Water Rights are to be Added as Additional Replacement Supplies.**

2007CW062	2007CW146	2007CW200	2008CW116	2018CW3030
2018CW3076				

**C. Water Right Currently Used as Replacement Supplies for Listed Augmentation Plans. 1.** Slaght Ditch Rights, as described in paragraph III.D.2., above. **2.** Maddox Reservoir Right, as described in paragraph III.D.3., above. **D. Name of Water Rights to be Added as Additional Replacement Supplies.**

**1.** Nickerson Ditch Rights, as described in paragraph III.D.1, above. **2.** Guiraud 3T Right, as described in paragraph III.C.1, above. **E. No Claim for Appropriative Right of Substitution and Exchange.** The existing replacement supplies identified in paragraph VIII.C. above are located on the North Fork of the South Platte River. The points of depletion for the augmentation plans identified in paragraph VIII.B. are located on South Platte River and its tributaries. The proposed additional replacement supplies identified in paragraph VIII.D are located on North Fork of the South Platte River (the Nickerson Rights) and on the South Platte River upstream of the confluence of the South Platte and the North Fork of the South Platte (the Guiraud 3T Right). Thus, use of the additional replacement supplies for the identified augmentation plans will not negatively impact any stream reaches. Accordingly, Mountain Mutual is not seeking approval of appropriative rights of substitution and exchange as part of this claim. **CLAIM NO. 7: APPLICATION TO ADD REPLACEMENT SUPPLIES– TURKEY CREEK: A. Description of Claim.**

Mountain Mutual administers for the benefit of its shareholders certain plans for augmentation, specifically identified at paragraph IX.B. below, that rely upon the water rights described in paragraph IX.C. below as a replacement supply for diversions of water from the Turkey Creek and its tributaries, as more fully described in the identified plans for augmentation. By this claim, Mountain Mutual seeks authorization to add the waters right listed in paragraph IX.D. below as additional replacement supplies for the identified augmentation plans. **B. Plans for Augmentation for which Named Water Rights are to be Added as Additional Replacement Supplies.**

W-8564	1986CW021	1994CW141	1994CW276	2001CW161
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**C. Water Right Currently Used as Replacement Supply for Listed Augmentation Plans.** Spinney Mountain Rights, as described in paragraph III.C.3., above. **D. Name of Water Rights to be Added as Additional Replacement Supplies. 1.** Soda Lakes Reservoirs Nos. 1 & 2. The Soda Lakes Reservoirs Nos. 1 and 2 located in Section 1, Township 5 South, Range 70 West, 6th P.M. in Jefferson County Colorado. The source of water is Bear Creek. MMRC owns 8.71 shares of the 400 shares issued and outstanding in the Soda Lakes Reservoir and Mineral Water Company (hereinafter "Soda Lakes"). The following water rights are decreed to Soda Lakes:

Decree	Appropriation Date	Amount (Acre-Feet)
Case No. 91471, Division No. 1, 1935	February 11, 1893	1,794
Case No. 91471, Division No. 1, 1935	February 11, 1893	598

The waters are decreed for domestic, irrigation and municipal uses. **2. Harriman Ditch.** The Harriman Ditch diverts water from Bear Creek and Turkey Creek. The Bear Creek headgate is located on the south bank of the Creek, in Section 2, Township 5 South, Range 70 West, 6th P.M., in Jefferson County. The Turkey Creek headgate is located on the south bank of the Creek, near the SW corner of Section 6, Township 5 South, Range 69 West, 6th P.M. Jefferson County. The following water rights are decreed to the Harriman Ditch in Case No. 6832, Arapahoe County District Court, Water Division 9, February 4, 1884:

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

The water rights are decreed for irrigation, domestic and municipal uses. MMRC owns 7.71 shares of 400 shares issued and outstanding in the Harriman Ditch Company. **3. Warrior Ditch** The Warrior Ditch also diverts water from Bear Creek and Turkey Creek. The original points of diversion of the Warrior Ditch were changed by the District Water Court in Case No. W-8344-76 on May 22, 1979 to the present location of the Harriman Ditch headgates. The following water rights are decreed to the Warrior Ditch.

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

The water rights were originally decreed for irrigation uses. MMRC owns 2.0 shares of 160 shares issued and outstanding in the Warrior Ditch Company. **4. Meadowview Reservoir.** Meadowview Reservoir is located in the NE1/4 SW1/4 and the NW1/4 SE1/4 of Section 26, Township 5 South, Range 71 West, 6th P.M., Jefferson County, Colorado. The source is North Turkey Creek and water tributary to North Turkey Creek. The reservoir capacity is 50.8 acre-feet. Water in Meadowview Reservoir is for augmentation and replacement purposes as decreed before the District Court for Water Division 1 (“Water Court”), in Case No. 2001CW294 and in Case No. 94CW290. **5. Firm Yield of Port Folio.** The firm yield of the portfolio of water rights and storage facilities owned by MMRC has been decreed by the Water Court in Case Nos. 94CW290 and 2001CW293 to be 62.8 acre feet per year. Of this amount, 23.8 acre-feet of consumptive use water is available for augmentation plans in the Turkey Creek drainage basin and 39.0 acre-feet of consumptive use water is available for augmentation plans in the Bear Creek drainage basin. This total firm yield is represented by 2,000 shares of stock in MMRC. **E. No Claim for Appropriative Right of Substitution and Exchange.** The existing replacement sources identified in paragraph IX.C. above are located on the South Platte River, above the Confluence of the South Platte River and Bear Creek. The points of depletion for the augmentation plans identified in paragraph IX.B. are located on Turkey Creek and its tributaries. The proposed additional replacement supplies identified in paragraph IX. D. are located

on Turkey Creek (the Turkey Creek Rights) and on Bear Creek (the Bear Creek Rights). Thus, use of the additional replacement supplies for the identified augmentation plans will not negatively impact any stream reaches. Accordingly, Mountain Mutual is not seeking approval of appropriative rights of substitution and exchange as part of this claim. **NAME AND ADDRESS OF OWNER OF LAND OTHER THAN APPLICANT UPON WHICH ANY NEW OR EXISTING DIVERSION STRUCTURES, OR MODIFICATION TO EXISTING DIVERSION STRUCTURE IS OR WILL BE CONSTRUCTED OR UPON WHICH WATER IS OR WILL BE STORED, INCLUDING ANY MODIFICATION TO EXISTING STORAGE POOL:** The application will not require any new or modification to any existing diversion structures or construction or modification to any existing storage pool.