

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 98CW-272

FILED IN WELD COUNTY
DISTRICT COURTS
98 JUN 30 1:40

APPLICATION

IN THE MATTER OF THE APPLICATION OF CONIFER CORNERS, LLC FOR WATER RIGHTS, PLAN FOR AUGMENTATION INCLUDING EXCHANGE, AND CHANGE OF WATER RIGHTS, IN JEFFERSON COUNTY

- 1. Applicants: Conifer Corners, LLC
1524 Belford Court
Evergreen, CO 80439
(303) 674-5750

North Fork Associates and Mountain Mutual Reservoir Company
2525 S. Wadsworth Blvd. #306
Lakewood, CO 80227
(303) 989-6932

WATER RIGHTS AND PLAN FOR AUGMENTATION

2. This application seeks a plan for augmentation a multi-family housing development located on 23 acres in the NE¼, Sec. 23, T6S, R71W, 6th P.M. Jefferson County. The property is described in Exhibit A, filed with this application or available from Applicants.

3. Proposed Development and Water Rights:

3.1 Structures to be Augmented: An undetermined number of wells located anywhere within the property.

3.2 Source: Groundwater tributary to North Turkey Creek.

3.3 Use: Commercial, Domestic, in-house only in multi-family housing.

3.4 Amounts: 15 gpm each.

3.5 Priority Date: May 1, 1998.

3.6 Estimated Use and Consumptive Use: Total water use is estimated to be 28 acre feet per year (average). Consumptive use is estimated to be 5%, or 1.4 acre feet per year. These estimates may be adjusted up or down as plans develop further.

3.7 Wastewater Disposal: Wastewater treatment plant with discharge to stream or ground water.

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4. Sources of Augmentation Water: Owner will purchase from North Fork Associates sufficient shares in the Mountain Mutual Reservoir Company to operate this plan. MMRC owns rights in the Harriman Ditch, Warrior Ditch, Soda Lakes Reservoir and Mineral Water Company, Evergreen Memorial Park Lake No. 2 (aka Meadowview Reservoir), described in detail in Exhibit B, filed with this application, and generally:

4.1 Warrior Ditch:

MMRC owns 2 shares of Warrier Ditch Co. stock. The Warrior Ditch has priorities 4, 8, 14 and 16. Sources: Bear Creek and Turkey Creek. The original Bear Creek and Turkey Creek points of diversion were changed in Case No. W-8344-76 to the Harriman Ditch headgates.

<u>Decree</u>	<u>Appropriation</u>		<u>Amount (CFS)</u>
	<u>Date</u>	<u>Source</u>	
Case No. 6832, Arapahoe County District Court, Water Division 9 February 4, 1884	December 1, 1861	Bear Creek	12.33
	April 16, 1862	Turkey Creek	2.86
	Oct. 31, 1864	Bear Creek	25.47
	April 4, 1865	Bear Creek	11.49

4.2 Harriman Ditch:

MMRC owns 7.71 shares of Harriman Ditch stock. The Harriman Ditch has priority numbers 21, 23, 25 and 30. Sources: Bear Creek and Turkey Creek. The Bear Creek headgate is located on the south bank in Sec. 1, T4S, R70W, 6th P.M., Jefferson County. The Turkey Creek headgate is located on the south bank, near the SW corner of Sec. 6, T5S, R69W, 6th P.M., Jefferson County.

<u>Decree</u>	<u>Appropriation</u>		<u>Amount (CFS)</u>
	<u>Date</u>	<u>Source</u>	
Case No. 6832, Arapahoe County District Court, Water Division 9 February 4, 1884	April 14, 1868	Turkey Creek	10.75
	March 16, 1869	Bear Creek	4.21
	May 1, 1871	Bear Creek	13.54
	March 1, 1882	Bear Creek	6.82

4.3 Soda Lakes:

MMRC owns 8.71 shares of Soda Lakes Reservoir and Mineral Water Co. stock. The Soda Lakes are located in Sec. 1, T5S, R70W, 6th P.M., Jefferson County. Water is diverted through the Harriman Ditch.

<u>Appropriation Date</u>	<u>Amount (Acre-Feet)</u>
February 11, 1893	1,794
February 11, 1893	598

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4.4 Meadowview Reservoir:

Located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 26, T5S, R71W, 6th P.M., Jefferson County. Adjudicated in case No. W-6656-72. Amount 30 acre-feet. Appropriation date June 15, 1972, for irrigation, piscatorial and recreation purposes. The source is water tributary to North Turkey Creek. An application seeking the right to use water decreed to Meadowview Reservoir for municipal, domestic, storage, irrigation, livestock watering, recreation and fire protection purposes, including the right to use, reuse and make a succession of uses of the water to extinction either directly or by exchange, replacement of depletions, for exchange and substitution purposes and augmentation purposes and to exchange Warrior/Harriman/Soda Lakes water to Meadowview Reservoir, is pending in Case No. 94CW290.

4.5 Historical use of these water rights has been determined in prior cases using parts of MMRC's rights for augmentation, include Case Nos. 94CW168, 95CW196, 95CW281, 95CW291, 96CW103, 96CW1046, and 97CW091.

5. Description of Plan: Water use through the structures described above and depletions will be calculated and replaced either contemporaneously or aggregated for administrative convenience, including potential aggregation with depletions from other plans using MMRC water. Irrigation season depletions may be replaced by foregoing diversions of direct flow water rights at the Harriman Ditch headgate or by storage releases. Non-irrigation season depletions will be replaced by storage releases from the Soda Lakes or Meadowview Reservoir. No augmentation will be required when depletions are in priority.

CHANGE OF WATER RIGHTS

6. Rights to be changed: Owner's interest in MMRC's rights in the Warrior Ditch, Harriman Ditch and Soda Lakes, more particularly described in Exhibit B.

7. Changes of Water Rights: Alternate points of diversion or storage: the wells on the property described above, Meadowview Reservoir, Harriman Ditch headgate for storage in the Soda Lakes. Water in excess of immediate augmentation requirements will be stored for later use.

8. Use: Commercial, Domestic, in-house use only in multi-family housing.

9. Means of Use: Direct flow or storage, following storage in the Soda Lakes or Meadowview Reservoir and by augmentation of out-of-priority diversions through the structures described above. Water will be exchanged from the Soda Lakes or Warrior/Harriman Ditch headgate or from Meadowview Reservoir to the wells described above, or to a point where the depletions occur. Rate of exchange: 0.002 cfs. to the property. Priority date of exchange, if required, is April 30, 1998.

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WHEREFORE, Applicants request adjudication of the above changes of water rights and plan for augmentation as described or as reasonably modified, and for such other relief as appears necessary or desirable.

DATED this ^{June} ~~26th~~ day of ~~May~~, 1998.

Respectfully Submitted,

PETROCK & FENDEL, P.C.

By: *Frederick A. Fendel, III*
Frederick A. Fendel, III, #10476
1630 Welton Street, Suite 200
Denver, Colorado 80202
(303) 534-0702

STATE OF COLORADO)
) ss.
COUNTY OF Jefferson)

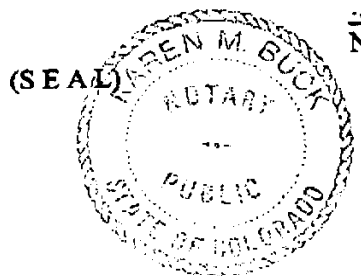
Joe Tom Wood, P.E., being first duly sworn upon oath, deposes and says that he is consulting engineer for the Applicants, that he has read the foregoing APPLICATION and that the matters contained therein are true to the best of his knowledge and belief.

Joe Tom Wood
Joe Tom Wood, P.E.

The above and foregoing was subscribed and sworn to before me this 28th day of May, 1998.

Witness my hand and official seal.
My commission expires: April 4, 2002

Karen M. Buck
Notary Public



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DATE: 11.13.04 10:30AM

LEGAL DESCRIPTION OF DEED DATED

22 82 acres

Parcel A:

A parcel of land located in the NE 1/4 of the NE 1/4 of Section 23, Township 6 South, Range 71 West of the 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

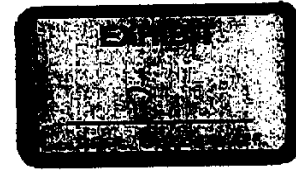
Beginning at the Northeast corner of said Section 23; thence South 08°47'48" East, along the East line of said NE 1/4 of the SE 1/4, 930.83 feet, more or less, to a point on the Northerly right of way line of Pleasant Park Road; Thence along Northerly and Westerly right of way line of Pleasant Park Road the following Thirteen (13) courses:

- 1) North 88°38'02" West, 357.25 feet, to a point of curvature;
 - 2) 146.75 feet, along the arc of a curve to the left having a radius of 648.35 feet and a central angle of 13°07'57", to a point of tangency;
 - 3) North 71°45'53" West, 77.25 feet, to a point of curvature;
 - 4) 181.13 feet, along the arc of a curve to the right having a radius of 346.13 feet and a central angle of 30°04'58", to a point of tangency;
 - 5) North 41°48'55" West, 173.78 feet, to a point of curvature;
 - 6) 223.76 feet, along the arc of a curve to the left having a radius of 110.81 feet and a central angle of 141°48'20", to a point of tangency;
 - 7) South 03°29'15" East, 81.71 feet, to a point of curvature;
 - 8) 88.91 feet, along the arc of a curve to the left, having a radius of 332.21 feet and a central angle of 15°20'01", to a point of reverse curvature;
 - 9) 159.00 feet, along the arc of a curve to the right, having a radius of 142.74 feet and a central angle of 81°49'14", to a point of reverse curvature;
 - 10) 86.85 feet, along the arc of a curve to the left, having a radius of 233.54 feet and a central angle of 21°18'24", to a point of tangency;
 - 11) South 23°41'36" West, 218.71 feet, to a point of curvature;
 - 12) 145.71 feet, along the arc of a curve to the left having a radius of 588.87 feet and a central angle of 14°09'12", to a point of tangency;
 - 13) South 09°32'24" West, 102.31 feet, more or less, to a point on the South line of said NE 1/4 of the NE 1/4; Thence South 88°38'02" West, along said South line of the NE 1/4 of the NE 1/4, 107.91 feet, more or less, to the Southwest corner of said NE 1/4 of the NE 1/4; Thence North 88°28'07" West, along the West line of said NE 1/4 of the NE 1/4, 1394.65 feet, more or less, to the Northwest corner of said NE 1/4 of the NE 1/4; Thence North 89°15'15" East, along the North line of said NE 1/4 of the NE 1/4, 1319.69 feet, more or less, to the point of Beginning.
- County of Jefferson,
State of Colorado.

Handwritten initials



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1. SODA LAKES RESERVOIRS Nos. 1 & 2

Located off stream in the Bear Creek drainage in Section 1, Township 5 South, Range 70 West, 6th P.M. in Jefferson County Colorado. North Fork Associates/Mountain Mutual Reservoir Company have an undivided interest in 8.71 shares of the 400 shares issued and outstanding in the Soda Lakes Reservoir and Mineral Water Company (hereinafter "Soda Lakes").

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

The waters are decreed for domestic, irrigation and municipal.

2. HARRIMAN DITCH

The Harriman Ditch has priority numbers 21, 23, 25 and 30. The sources of water for the Harriman Ditch are Bear Creek and Turkey Creek. The Bear Creek headgate is located on the south bank of said creek, in Section 1, Township 4 South, Range 70 West, 6th P.M., in Jefferson County. The Turkey Creek headgate is located on the south bank of said creek, near the SW corner of Section 6, Township 5 South, Range 69 West, 6th P.M. Jefferson County.

<u>Decree</u>	<u>Appropriation Date</u>	<u>Source</u>	<u>Amount (Cubic Feet Per Second)</u>
Case No. 6832, Arapahoe County District Court, Water Division 9 February 4, 1884	April 15, 1868	Turkey Creek	10.75
	March 16, 1869	Bear Creek	4.21
	May 1, 1871	Bear Creek	13.54
	March 1, 1882	Bear Creek	6.82

The water rights are decreed for irrigation, domestic and municipal uses. North Fork/Mountain Mutual Reservoir Company own an undivided interest of 7.71 shares of 400 issued and outstanding shares of the Harriman Ditch Company (hereafter called "Harriman"). The subject shares were historically used to irrigate approximately 23 acres in the NE 1/4 of Section 11 and the NW 1/4 of Section 12, Township 5 South, Range 69 West, 6th P.M., City and County of Denver, Colorado.

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3. WARRIOR DITCH

The Warrior Ditch has priorities 4, 8, 14 and 16. The sources of water for the Warrior Ditch are Bear Creek and Turkey Creek. The original adjudicated Bear Creek and Turkey Creek 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 Hartiman Ditch headgates.

<u>Decree</u>	<u>Appropriation</u>		<u>Amount</u> (Cubic-Feet-Per-Second)
	<u>Date</u>	<u>Source</u>	
Case No. 6852, Arapahoe County District Court, Water Division 9 February 4, 1884	December 1, 1861	Bear Creek	12.33
	April 16, 1862	Turkey Creek	2.86
	October 31, 1864	Bear Creek	25.47
	April 4, 1865	Bear Creek	11.49

The water rights were originally decreed for irrigation uses. North Fork/Mountain Mutual Reservoir Company own an undivided interest of 2.0 shares of 160 issued and outstanding shares of the Warrior Ditch Company (hereinafter called "Warrior"). The subject shares were historically used to irrigate approximately 109 acres in the E1/2 SW1/4, W1/2 SE1/4, SW1/4 NE1/4 and E1/2 SE1/4 NW1/4 of Section 34, Township 4 South, Range 69 West, 6th P.M., Jefferson County, Colorado.

4. EVERGREEN MEMORIAL PARK LAKE NO. 2

Evergreen Memorial Park Lake No. 2 (a/k/a Meadowview Reservoir). North Fork Associates and MMRC have contracted to purchase an interest in Meadowview Reservoir for augmentation purposes. The Structure is located in the NE 1/4 SW 1/4 and the NW 1/4 SE 1/4 of Section 26, Township 5 South, Range 71 West, 6th P.M., Jefferson County, Colorado. It was adjudicated in Case No. W-6656-72 in the amount of 30 acre-feet with an appropriation date of June 15, 1972, for irrigation, piscatorial and recreation purposes. The source is water tributary to North Turkey Creek. An application seeking the right to use water decreed to Meadowview Reservoir for municipal, domestic, storage, irrigation, livestock watering, recreation and fire protection purposes, including the right to use, reuse and make a succession of uses of the water to extinction either directly or by exchange, replacement or depletions, for exchange and substitution purposes and augmentation purposes, is pending in Case No. 94CW290.

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DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 98CW292

08 DEC 16 AM 11

AMENDED APPLICATION

IN THE MATTER OF THE APPLICATION OF CONIFER CORNERS, LLC FOR WATER RIGHTS, PLAN FOR AUGMENTATION INCLUDING EXCHANGE, AND CHANGE OF WATER RIGHTS, IN JEFFERSON COUNTY

This Application is amended to correct an error in the legal description for the point of diversion of the Harriman Ditch and its associated direct flow and storage rights:

The headgate of the Harriman Ditch is on the south bank of Bear Creek in the NE¼ Sec.2, T5S R20W 6th PM Jefferson County. All other matters contained in the original application

** TOTAL PAGE 11 **

CERTIFICATE OF MAILING

I do hereby certify that on this 15th day of December, 1998, a true and correct copy of the foregoing **AMENDED APPLICATION** was deposited in the United States Mail, postage prepaid, addressed to the following:

Michael Shimmin
Vranesh & Raisch, LLC
1720 14th Street, Suite 200
P.O. Box 871
Boulder, Colorado 80306-0871

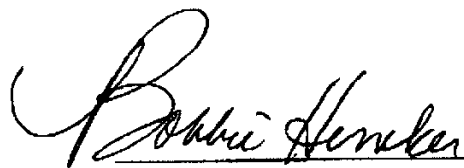
Timothy R. Buchanan
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Richard William Toussaint
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