

1-1-2003

Application for Approval of Plan for Augmentation Including Appropriative Rights of Exchange.

Staci A. McComb

Follow this and additional works at: <https://digitalcommons.du.edu/wlr>



Part of the [Law Commons](#)

Custom Citation

Staci A. McComb, Water Rights Application, Application for Approval of Plan for Augmentation Including Appropriative Rights of Exchange., 6 U. Denv. Water L. Rev. 655 (2003).

This Colorado Water Rights Application is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Water Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

Application for Approval of Plan for Augmentation Including Appropriative Rights of Exchange.

based on actual well pumping data. The amount of water projected for the next year's pumping is based on a rolling average of the last five year's pumping data. The District proposes to measure future well depletions based upon a monthly water budget developed for each parcel. The water budget will be based upon the historic consumptive use of each parcel estimated for the period from 1974-2002 and future years as added. The historic consumptive use will be estimated by the modified Blaney-Criddle crop evapotranspiration method. The amount of well water needed to fulfill net crop irrigation requirements will be determined after crediting surface water irrigation sources, effective precipitation, and soil moisture.

The District also seeks absolute and conditional rights for two wells intended as sources of augmentation, replacement, and exchange for this plan. Both wells are located in Sedgwick County and have groundwater tributary to the South Platte River as their source. The District claims 3000 gallons per minute, absolute; 638 acre-feet, absolute; and 862 acre-feet, conditional; with an appropriation date of April 3, 2001, for District Well No. 1. At District Well No. 2, the District claims 3700 gallons per minute, absolute; 1300 gallons per minute, conditional; 1400 acre-feet, absolute; and 3600 acre-feet, conditional; with an appropriation date of June 4, 2001.

2. Opposition

No statements of opposition have been filed.

Arthur R. Kleven

APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION

INCLUDING APPROPRIATIVE RIGHTS OF EXCHANGE. Case No.

2002CW389 (Water Division 1, Jan. 6, 2003). Applicant: Upper South Platte Water Conservancy District and Center of Colorado Water Conservancy District (Atty. Jeffrey J. Kahn, Bernard, Lyons, Gaddis & Kahn, P.C.).

1. Applications

The Upper South Platte District ("USPD") and the Center District ("Center") (collectively the "Districts") seek to augment various wells and surface water diversion structures. All of the wells and diversion structures are located in the drainage basin of the North Fork of the South Platte River and the South Platte River above their confluence. Those who currently seek augmentation of their water rights include: Saint Mary of the Rockies, Fairplay Mobile Home Park, Forest Glen Sports Association and Lininger Reservoir. However, the application provides that new participating diversions may be added subject to conditions including permission from the Districts and the Division Engineer.

There are four water rights that will be used for the proposed augmentation. The first water right involves the thirty-seven acre-feet

of firm yield that the City of Aurora deeded to the USPD. The proposed water right includes an undivided interest in the right of first use of the thirty-seven acre-feet of firm yield per annum from water rights owned by the City of Aurora deeded for storage in the Spinney Mountain Reservoir. The second water right involves fifty acre-feet of storage space in the Spinney Mountain Reservoir that the City of Aurora assigned to the Upper South Platte District. The third water right involves 21.5 shares of the Mountain Mutual Reservoir Company ("MMRC"). The USPD, by virtue of its shareholder status in MMRC, receives 0.675 acre-feet of consumptive use water yearly.

The delivery of the 21.5 shares will take place at various points from several sources. These sources include 2.868 cubic feet per second ("c.f.s.") of the water rights decreed to Guiraud 3T Ditch, with an adjudication date of October 18, 1889 and appropriation date of July 7, 1867. The second source involves eighty acre-feet of water owned by MMRC stored in the Spinney Mountain Reservoir, with an adjudication date of 1973 and appropriation date of March 26, 1973. The third source comes from a 25.2% interest in the Lower Sacramento Creek Reservoir No. 1, with an adjudication date of 1974 and an appropriation date of July 25, 1974. The USPD acquired the 21.5 shares by assignment in May 1991. The water rights associated with the 21.5 shares may be exchanged upstream by utilizing exchanges decreed in Case No. 80CW050 or by exchanges claimed in this application. Finally, the fourth water right involves four water rights, which are subject to an application for a change of water rights.

First, the McCartney Ditch, which maintains an undivided three-eighths interest in the McCartney Ditch with the right to divert seventy-five c.f.s. as appropriated on May 20, 1885 from the Tarryall Creek through the headgate of the McCartney Ditch. Second, the Sessions Ditch, which retains an undivided one-third interest consisting of the right to divert 3.5 c.f.s. from the Michigan Creek with an appropriation date of July 31, 1880. Third, the Michigan Ditch, which retains a diversion right of 2.0 c.f.s. as appropriated on June 30, 1875 from the Michigan Creek through the headgate of the Michigan Ditch. The fourth and final water right involves the Tarryall Ditch, which maintains the right to divert 7.9 c.f.s. from the Tarryall Creek through the headgate of the Tarryall Ditch as appropriated on June 15, 1875. The Districts plan to use the consumptive use credits quantified in Case No. 02CW240, however they reserve the right to exchange the consumptive credits from that case using exchanges decreed in that case or in this case.

The Districts' application plan offers they will provide the augmentation water for participating diversions including wells, pipelines, ponds, pumps, and springs diverting tributary water for irrigation, stock watering, gravel mining, domestic and commercial uses within the boundaries of the Districts. The Districts plan to provide augmentation water to replace all consumptive use depletions resulting from participating water users that have wells, ponds or other diversions located within the District.

The application contains detailed descriptions for determining the amount of replacement water required for residential indoor use, indoor consumptive use, irrigation consumptive use, livestock use, pond water surface evaporation, and commercial, industrial and business water use. Similarly, the application details the description of the conditional exchanges and the absolute exchanges that will take place. Affected streams for conditional exchanges include the South Fork of the South Platte River (2.0 c.f.s.), the Middle Fork of the South Platte River (2.0 c.f.s.), Tarryall Creek (3.0 c.f.s.), Michigan Creek (2.0 c.f.s.), Jefferson Creek (2.0 c.f.s.), the North Fork of the South Platte River (3.0 c.f.s.), the South Platte River (2.0 c.f.s.), Horse Creek (2.0 c.f.s.), West Creek (2.0 c.f.s.) and Trout Creek (2.0 c.f.s.). All of the above listed conditional exchanges have an appropriation date of December 4, 2002. The downstream points of exchange for the absolute exchanges include the Spinney Mountain Reservoir and the confluence of the North Fork of the South Platte River and the South Platte River. The upstream points of exchange for the absolute exchanges consist of a well owned by Saint Mary of the Rockies (0.1 c.f.s., January 6, 1999), a well owned by Fairplay Mobile Home Park (0.1 c.f.s., January 1, 1998), a well owned by Forest Glen Sports Association (0.1 c.f.s., April 30, 1998) and the Lininger Ditch from Beaver Creek owned by the Lininger Reservoir Kenosha Trout Club (2.2 c.f.s., March 14, 2000). An agreement of the USPD to replace depletions to each of the structures initiated the appropriation dates.

2. Opposition

No statements of opposition have been filed.

Staci A. McComb

APPLICATION OF ROLAND DIXON FOR WATER RIGHTS AND FOR APPROVAL OF CHANGE OF WATER RIGHT AND PLAN FOR AUGMENTATION. Case No. 2002CW328 (Water Division 1, Dec. 2002). Applicant: Roland Dixon (Atty. David F. Jankowski, White & Jankowski, L.L.P.).

1. Application

Roland Dixon ("Dixon") requests a change in a portion of his decreed water right. Dixon owns fifty inches of water adjudicated to the Pleasant Valley and Lake Canal ("PVLC"). Dixon requests up to one inch of his water right for piscatorial, wildlife habitat, stock watering, recreation and aesthetic purposes, and for augmentation, substitution, replacement and exchange uses. Dixon seeks to add this change to his presently decreed irrigation use.

The point of diversion is located on the south side of the Cache La Poudre River. The original appropriation occurred between September 1, 1861 and June 10, 1864. Dixon presently uses the water