# Operations Manual for the IM Water Service Plan (WSP)

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- IM WSP Application Form.
- IM *WaterWise* Newsletters.
Preface

“...all wells within the subdivision MUST be covered by an operating plan of augmentation to continue to legally pump. Continuing to have your well covered under the [existing plan] is one option. I believe there are also other options to over cover your well.”

-David L. Nettles
Division Engineer, Water Division 1
Colorado Division of Water Resources
October 11, 2016

Introduction

After more than two decades of meetings, negotiations, offers, counteroffers, litigation, and court rulings, the Indian Mountain Metropolitan District (IMMD), with support of the Indian Mountain Property Owners Association (IMPOA), forged an agreement with the Headwater Authority of the South Platte (HASP) for water augmentation of Indian Mountain (IM) wells. We are no longer dependent on the IM developer (formerly Indian Mountain Corporation and now Bar Star Land Company) for the augmentation of our wells.

This new innovative plan, called the IM Water Service Plan (WSP), offers a long-term, predictable, stable, fair, transparent, community-based, low-cost solution for augmentation.

We believe you will see the benefits of participating in the IM WSP and hope you are reassured in knowing that IMMD and IMPOA have worked diligently to create an alternative water augmentation plan. For in-depth information regarding these topics, please visit our website at www.indianmountain.info. And, as always, if you have any questions regarding the information in this publication, please send us an email at indianmtn@hotmail.com or call 719-836-9043.

Respectfully,
IMMD Board
IMMD Water Services

In January 2013, the Park County Board of County Commissioners approved an updated and amended Service Plan for the Indian Mountain Metropolitan District (formerly the Indian Mountain Recreation and Park District). The change in the Service Plan added water services as a purpose for the District, which provides the authority for IMMD to operate the IM WSP. Water services are defined in the Service Plan as follows:

“Water Services. The District shall have the power and authority to finance, design, construct, acquire, install, maintain and provide for potable water and for the maintenance, conservation, and community access to water resources within the District. More specifically, the District may manage two earthen-dams with associated seasonal ponds, wetland corridors, a section along the Tarryall Creek, and seasonal springs and ponds. Management may include, but is not limited to, fencing to control cattle, stream bank stabilization, trail design and relocation, regulatory and interpretive signage, fishery improvements, RV dump station and storage lot, erosion control, pond restoration and maintenance, dam safety and maintenance, community information and education, and controls for appropriate public use and enjoyment.

“The District shall have the power and authority to finance, design, constructs, acquires, install, maintain and provide services associated with the ownership and administration of the Indian Mountain water augmentation plan, including the plan’s water rights, facilities, transfer system, storage reservoirs, access, easements, ditches, gates, and other incidental and appurtenant facilities. The District shall have the power and authority to contract with other private and governmental entities to provide any or all of the services associated with the Indian Mountain water augmentation plan.”
Brief History of IM Water Augmentation

A community was born (early 1970). More than 10,000 acres of land were transferred to the Park Development Company, including interest in the Slater Ditch and Tarryall Ranch Reservoirs No. 1 and No. 2. The Park Development Company, and its general partner Meridian Properties, moved forward to develop and sell the residential lots comprising the Indian Mountain subdivision (IM).

Water Court & the creation of IMRPD (mid 1970s). After the Colorado Legislature passed Senate Bill 35 in 1972, developers of subdivisions in the Colorado high country typically established a home owner’s association (HOA) to hold water rights and operate a water augmentation plan for a subdivision’s wells. The Park Development Company, Meridian Properties and Indian Mountain Corp all failed to establish an HOA for the IM subdivision. They did, however, create the Indian Mountain Recreation and Park District (IMRPD) which owned and managed the subdivision’s ski hill, golf course and other amenities.

In the mid-1970s, the State Engineer blocked further IM development because he determined wells on the lots would cause “material injury” to senior water right holders. Sales were suspended. Meridian Properties proceeded to develop an augmentation plan that would allow wells in the IM subdivision to pump for domestic use even when the stream depletions they cause were out of priority. Division 1 Water Court (case number W-7389) issued a decree approving the IM Water Augmentation Plan.

Indian Mountain Corporation and James Campbell. In 1976, the Park Development Company conveyed its interest in IM lands to the Indian Mountain Corporation, owned and operated by James Campbell. Campbell continued to operate the IM Water Augmentation Plan from 1976 to 2013 without requesting or receiving any payment for administration of the plan. Numerous requests were made to Campbell by IMMD and IMPOA over the years to transfer the IM Water Augmentation Plan over to IM but to no avail.

IMRPD Becomes IMMD. The 1972 Indian Mountain Recreation and Park District’s service plan was updated and approved by the Park County Board of County Commissioners in January 2013 to reflect the actual services provided to IM including park and recreation, and water services. To keep the District in legal compliance with Title 32 of the Colorado Revised Statutes, the name was changed to Indian Mountain Metropolitan District. The revision also gave authority to the District, on behalf of the community, to secure and manage water augmentation services such as the IM WSP.

IMC sold to Bar Star LLC and James Ingalls (2013). Campbell sold IMC to James Ingalls and Mark Goosman of Bar Star LLC in summer 2013 without giving IM the opportunity to purchase the IM Water Augmentation Plan. After the sale, Bar Star LLC demanded payment
from IMMD for the operation of the plan and then sued IMMD for $286,000, a value Blue Star LLC set for the water and services provided to the IM community for implementation of the plan from April 2012 to April 2014. IMMD had no obligation to pay Bar Star LLC and refused to pay what was considered an exorbitant amount.

Bar Star LLC sued IMMD and the case went to court. During the trial, water experts testified the plan did not cost more than $5,000 annually to maintain including the dam, reservoir, head gates, ditch and the release of water back into the system. The court ruled Ingalls could charge IM well owners for only actual and reasonable costs to maintain the plan. Ingalls appealed that ruling, and the Colorado Court of appeals reversed the District Court ruling, saying Bar Star LLC could charge IM owners whatever the market would bear. IMMD asked the Colorado Supreme Court to review the Appeals Court decision but the request was denied on April 25, 2017.

**IMMD and IMPOA develop an alternative water service program (2017).** IM property owners expressed an overwhelming desire for the community to control its own water and not rely on a private company that was empowered by the Appeals Court to charge whatever fees the market would bear. IMMD and IMPOA began working on an alternative way to augment IM wells. The IM Water Service Program is an option for IM well owners to augment their wells.

**Headwater Authority of the South Platte**

The Upper South Platte Water Conservancy District (USPWCD) and the Center of Colorado Water Conservancy District (CCWCD) are water districts servicing Park County and portions of Teller, Douglas, Jefferson and Clear Creek counties. The two districts joined together to form the Headwater Authority of the South Platte (HASP). HASP operates a water rights enterprise through which it sells augmentation water to customers throughout the HASP service areas.

HASP goals are:

1. To locate and develop water resources for use by HASP customers.
2. To help businesses and residents to obtain a water supply for their water uses.
3. To bring out of compliance water users into compliance with state regulations.

HASP is a partner with IMMD in operating the IM WSP. IMMD purchases water from HASP on an as-needed basis so the program participants have augmentation water for their wells and comply with state regulations. By opting-in to the IM WSP owners of wells in Indian Mountain change from augmentation under the IM Water Augmentation Plan owned by Bar Star (Water Court Decree W-7389) to the HASP water augmentation plan (Water Court Decree 12CW50).

Each month, participants in the IM WSP must report their water usage to the Program Administrator, who in turn must report these amounts to the HASP Operations Manager by the 10th of each month. The HASP website at [www.haspwater.com](http://www.haspwater.com) includes several other rules and regulations with which the IM WSP must abide.
### IM WSP Advantages/Benefits

| Who administers the plan | IM WSP *(Community-owned and managed)* | BSWC *(Private company)*  
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td></td>
<td>Plan administered by IMMD, a non-profit quasi-governmental organization created by and for the IM community. The IMMD exists at the will of IM property owners who can serve on the IMMD Board as well as provide input on fees, operations, and policies.</td>
<td>Plan administered by a for-profit private company, which may be sold, bought or merged based upon the decision of the owner without consent or involvement of IM property owners.</td>
</tr>
<tr>
<td>Where can water be used</td>
<td>Interior use, with option for exterior use.</td>
<td>Interior use only.</td>
</tr>
<tr>
<td>Transparency</td>
<td>Full public transparency provided through a voluntary board of directors, monthly public board meetings, annual financial audit, public website, a WSP oversight committee and publically accessible documentation.</td>
<td>Not obligated to provide information to the customers or ensure public transparency. As a private for-profit organization, there is no obligation or commitment to provide information to IM property owners.</td>
</tr>
<tr>
<td>Cost standard</td>
<td>Operated on an “actual” cost-standard with no markup for profit.</td>
<td>Operated on a “whatever the market will bear” cost-standard including profit and return on investment for BSWC.</td>
</tr>
<tr>
<td>Capital expenses</td>
<td>Participants will not be subject to any additional capital expenses.</td>
<td>Participants may be subject to additional capital expenses such as equipment purchase and repair, and maintenance of the BSWC infrastructure (i.e., reservoir, dam, water transfer ditch, head gate, fencing, etc.).</td>
</tr>
<tr>
<td>Plan stability</td>
<td>High stability: Initial costs, annual fees and administrative expenses are set and documented for IM property owners to view.</td>
<td>Unknown stability: future annual costs and uncertainty regarding future ownership of the plan may be risky.</td>
</tr>
<tr>
<td>Documentation</td>
<td>Participants will receive an augmentation certificate verifying the right to use well water on their property, and this certificate will pass with the property upon sale. This certificate is filed with the Park County Clerk and Recorder’s Office and the Colorado Division of Water Resources.</td>
<td>Participants do not receive an augmentation certificate.</td>
</tr>
<tr>
<td>Water metering</td>
<td>Requires participants to install and certify a water meter. Estimated cost of basic water meter, installation and certification is $500.</td>
<td>Does not require a water meter.</td>
</tr>
<tr>
<td>Monthly reporting</td>
<td>Yes. Participants would go to IMMD website to report gallons used towards the end of each month. Well owners can conveniently arrange for absences.</td>
<td>None required.</td>
</tr>
<tr>
<td>Application fee to enroll</td>
<td>$150 one-time enrollment fee.</td>
<td>None.</td>
</tr>
</tbody>
</table>
| Annual operating fee | $150 per year. This amount is expected to be reduced after 300 enrollees to reflect actual costs of the program shared equally among all. | 1 year: $400  
3 years: $1,000  
5 years: $1,400  
10 years: $2,400 |
| Will fees change | Fees will decrease as participation increases because they are based upon real costs and are shared equally among all participants. | The Fall 2016 BSWC website says: “we are offering limited time service packages”. It is not apparent when the limited time service packages will expire or change. |
| Properties without wells (vacant lots) | No action is necessary; no fees are owed by IM property owners without wells. | In order to save your spot in the BSWC Plan, lot owners without wells pay a one-time administration fee of $150 and an annual service availability fee of $50 per year until a well is drilled. |
Administrative Structure

(a) The Indian Mountain Metropolitan District is responsible for the operation of the IM WSP in accordance with an Intergovernmental Agreement between IMMD and HASP. Furthermore, all decision-making and actions of the IMMD Board must be in accordance with the rules governing a Colorado special district.

(b) The IMMD Board shall establish an IM WSP Oversight Committee to provide support and advice. It shall be comprised of a member from the IMMD Board, one member of the IMPOA Board, and up to two at-large IM well owners. All Oversight Committee members must have a well augmented by the IM WSP. The role of the Committee is to:

- Provide advice and counsel to IMMD on matters of the Operations Manual,
- Recommend punitive actions for participants who are not operating in compliance with program policies and procedures,
- Review annual financial audit, and
- Provide recommendations to the Board to help ensure the IM WSP is effective, efficient, attractive, financially solvent, and fair to IM residents.

(c) The WSP Administrator shall be responsible for the daily and routine operations of the IM WSP. The Program Administrator shall serve at the pleasure of the Board and is authorized to follow and enforce the policies and procedures set forth in the Operations Manual. The Administrator shall report on the status and welfare of the WSP at each regular IMMD Board meeting and in various reviews, audits, and evaluations, including meetings of the IM WSP Oversight Committee.

(d) IMPOA does not have direct authority or responsibilities for the IM WSP but helped to create and continues to promote, support, and sustain the IM WSP. One IMPOA Director selected by its Board of Directors shall serve on the Oversight Committee, and the IMPOA board itself will be welcomed to provide advice and counsel to the IMMD Board of Directors at any time.

(e) The IMMD Board member serving on the Oversight Committee will also be the Chair of the committee. Members of the committee will serve as voluntary un-salaried members, while some reasonable expenses associated with the committee service may be reimbursed at the discretion of the IMMD Board. Members of the Oversight Committee will serve at the pleasure of the IMMD Board, and should be appointed by the IMMD Board on staggered 2-3 year terms to the extent practicable to ensure a smooth transition over the years.
Financing Strategy

(a) The basic operating principle underlying the IM WSP is that the Program will operate on a reasonable and actual cost basis, where costs are distributed evenly among all participants. That is, the program is not intended to generate profits for IMMD. Any yearly surplus above actual costs will be rolled into the IM WSP budget for the following year.

(b) IMMD shall maintain a detailed accounting of IM WSP revenues and expenses separate from other IMMD programs and accounts.

(c) IMMD shall have a financial audit performed each year on the IM WSP account, and based upon projected costs and the number of participants, the annual operating fee charged to participants will be changed and evenly distributed. After review by the WSP Oversight Committee and the IMMD Board, the annual financial audits shall be posted on the IMMD website within 60 days of acceptance by the Board.

(d) An application fee shall be required for new or returning WSP participants. These monies are dedicated to water acquisition by the Board. In 2017, this fee has been set at $150 per applicant and may change in subsequent years, subject to approval of the IMMD Board.

(e) An annual operating fee shall be payable by each WSP participant to IMMD by October 1 of each year. This fee is intended to cover the actual routine program operations costs, such as, but not limited to, the HASP annual administration fee, meter data management and reporting, annual financial audit, software and web support, mailings and postage, program administrator costs, legal fees, technical consultant fees, supplies, telecommunications, local travel, incidental WSP Oversight Committee costs, and office equipment. In 2017, this fee shall be $150 per participant and may change in subsequent years to reflect projected reasonable and actual costs.

(f) IMMD may accept donations, or enter into leases or lease/purchase financial arrangements to support the IM WSP, in accordance with rules governing IMMD as a Colorado special district.

Acceptance into the IM WSP

Acceptance into the IM WSP is a two-step process:

1. Submission to the Program Administrator of a completed, signed and notarized IM WSP Application Form along with a personal check or credit card to cover the IM WSP Application Fee of $150 for 2017.

2. Submission to the Program Administrator of the meter certificate verifying that a water meter has been installed and operating properly according to HASP standards.

Participants will receive a Certificate of Augmentation from IMMD and have their name and well information filed with the Park County Clerk and Recorder’s Office and the Colorado Division of Water Resources in December of the year they are accepted into the IM WSP.
Core Operating Policies

These operating policies are written in first-person as they are in the Application Form. “I” refers to each owner of a well in Indian Mountain that becomes an IM WSP participant.

1. I am responsible to install and have certified a totalizing water meter that will measure my inside (in-house) residential water use with an accuracy equal to or better than +/- 5%, and a copy of the meter certification must be on file with the WSP program administrator.

2. I understand that, if I opt to use some water for exterior outdoor use, a second totalizing water meter with a level of accuracy equal to or better than +/- 5% is necessary to measure the amount of water used for exterior use, and a copy of the exterior meter certification must be on file with the WSP program administrator.

3. I understand that the WSP Program Administrator will send two email alerts in the latter part of each month reminding me that the monthly water report is due by the 6th day of the new month, and that I, or my designee, must go on-line to the IMMD website and electronically report my meter reading in gallons between the 1st and 6th of each month.

4. I understand my annual WSP administration fee is to be received on or before October 1st of each year; that the IMMD Board of Directors may change the administrative fee from year to year based upon the number of participants and the projected administrative costs for the forthcoming year; and that the IMMD Board will annually audit WSP finances and publicly disclose the findings.

5. I understand that the IMMD Board of Directors will rely upon statements in this Application and subsequent monthly water reports made by me, or my designee, and that such statements are subject to the provisions of C.R.S. 18-8-503 which states that a person commits second degree perjury if he/she makes a materially false statement (i.e., one that he/she does not believe to be true) while under oath with the intent to mislead a public servant in the performance of the servant’s duty.

6. I understand that approval by the IMMD Board of Directors of this Application and my participation in the WSP may be rescinded if it is determined that one or more of my Application statements are materially false, that my monthly water reports are not complete and submitted between the 1st and 6th day of each month, or that I fail to follow the policies and procedures set forth in this WSP Operations Manual.

7. I understand that my participation in the IM WSP allows me to use up to 7,333 gallons per month for indoor (in-house) residential use only, or 88,000 gallons per year, and that any water above this amount may incur additional costs, fines, liens, or other punitive actions deemed appropriate by the IMMD Board.
8. I understand that if my contact information changes (mailing address, phone or email), I am to notify the WSP program administrator within 30 days of the change.

9. I understand that the benefits of the WSP only accrue to me (i.e., property owners) while I am in good-standing and in compliance with the WSP Operations Manual. I will be notified (i.e., given a warning) by registered mail of any breaches or violations. If I fail to correct the breaches or violations, I understand that I may be dropped from the WSP without recovery of any fees, costs, or expenses. My dismissal from the WSP will be filed with the Park County Clerk and Recorder’s Office and the Colorado Division of Water Resources.

10. I understand that acceptance into WSP will effectively change the augmentation plan for my well from the IM Water Augmentation Plan (Water Court Decree W-7389) currently administered by the Bar Star Water Company to the HASP Water Augmentation Plan (12CW50) supporting this IM WSP.

11. I acknowledge that prior to signing and submitting this Application, I have read and understand the IMMD WSP Operations Manual; and that, on occasion, given new information or circumstances, the Board of Directors may amend the WSP Manual and provide notice of such changes to WSP participants.

**Permissible Water Usage**

a. Participants may use up to 7,333 gallons per month for indoor (in-house) residential use, or up to 88,000 gallons per year.

b. Exterior use of water is not permitted at this time, but the option is being negotiated with HASP and should be available in the future.

c. Water allocations cannot be saved, collected, transferred, shared, sold, or rolled-over from one month to another month, from one year to another, from one well to another, or from one person to another.

d. Water consumption above 7,333 gallons per month, or 88,000 gallons per year, may result in additional charges, fines, lien, or dismissal from the IM WSP. IMMD is not responsible and will not pay for HASP water charges for overages.

**Water Meters**

Water meters are required of all WSP participants, as described above.

a. Participants shall install and have certified a totalizing water meter that will measure the interior residential water use with accuracy equal to or better than +/- 5%, and a copy of the meter certification must be on file with the WSP program administrator. It is expected this verification will be received within 6 months of submitting an application form and check
for the application fee. An augmentation certificate will not be filed until verification is received.

b. IMMD does not require or otherwise prescribe or suggest any particular water meter, manner of installation, manufacturer, installer, certifier or other person or company related to water metering. The Program Administrator may indicate what water meters, manufacturers, installers and certifiers other IM WSP participants have used and how to make contact. The HASP website at www.haspwater.com may have suggestions.

**Monthly Reporting**

a. Participants will be emailed by the WSP Administrator at the address they provide on two occasions towards the end of each month as a reminder to report their water meter readings. It is not the responsibility of IMMD to make sure they have an operating email or that the email is received.

b. WSP participants are expected to log on to www.indianmountain.info during the water reporting period between the 1st and 6th of each month to record their water meter readings.

c. In the event of extended absences, or other circumstances which do not permit the participant to provide actual water meter readings, they are responsible to contact the Program Administrator before the reporting period and make other arrangements.

d. It is a violation of the operating principles of the IM WSP to not report water meter readings each month or otherwise communicate with the Program Administrator as to any inability to do so. Email communication should be sent to indianmtn@hotmail.com or call Samantha Bertin at 719-836-9043.

**Filing with Authorities**

By December 15th of each year, the names and required information of all those WSP participants in good standing, as well as those participants opting-out or being dismissed from the IM WSP in that calendar year, will be filed by IMMD with the Park County Clerk and Recorder’s Office and with the Colorado Division of Water Resources.

**Opting-out of WSP**

Participants may opt-out of the WSP under the following circumstances:

a. A WSP participant may withdraw from the Program at any time for any reason by a written notification of the WSP Administrator.

b. Participants withdrawing from the WSP will not be eligible for any rebate or reimbursement of fees, fines, liens, charges, or other expenses.
c. Participants withdrawing from WSP may still be responsible for any fees, fines, liens, charges or other obligations owed to the Program unless released from these obligations by a majority vote of the IMMD Board.

d. Opting-out of the WSP becomes effective in December when the action is recorded with the Park County Clerk and Recorder’s Office and the Colorado Division of Water Resources.

**Dismissal from the IM WSP**

Dismissal from the WSP occurs under the following circumstances.

a. The IMMD Board, in accordance with a recommendation of the majority of the IM WSP Oversight Committee, may dismiss a participant based upon a majority vote of the IMMD Board.

b. Dismissal from the WSP is a serious matter for all parties, and the Board shall take reasonable and prudent efforts to communicate and correct the situation in advance of a dismissal decision.

c. Warnings, fines, liens and other punitive actions are options which may precede dismissal.

d. Reasons for dismissal include, but are not limited to, a failure to pay annual operating fees within 90 days of due date, lack of timely water meter reporting, lack of proper water meter equipment and certification, excessive amount of water usage, improper water usage, false reporting of water meter readings, or otherwise providing misleading or false information.

e. The IM WSP Oversight Committee will be responsible to review situations where a participant is not in compliance with the WSP Operations Manual. The Committee will attempt to communicate with the participant and try to bring the situation into compliance. After three attempts to correct the situation, the Committee may, by majority vote, recommend to the IMMD Board that a participant is subject to punitive measures, including possible dismissal from the Program.

f. The Committee will provide a written summary of the situation to the Board and to the participant in question. The Board will invite the Participant to appear before the Board within 60 days.

g. Participants dismissed from WSP will not be eligible for any rebate or reimbursement of fees, charges, liens, or other expenses.

h. Dismissal will be effective in December when the action is recorded with the Park County Clerk and Recorders Office and the Colorado Division of Water Resources.
Amending the IM WSP Operations Manual

It is expected that, from time to time, the Board may amend the WSP Operations Manual.

a. Change in the operating manual may be caused by, but not be limited to, the practical experience of operating the WSP, new information or circumstances, new technologies or software, results of reviews and evaluations, public comment, financial audit, or direction from HASP, DWR, or the Courts.

b. Small editorial and clarification changes, particularly in the first year of operation, may be made by the Program Administrator with notification to the Board at the subsequent regular IMMD Board meeting.

c. Substantive changes, which materially affect the policies, procedures, or participants of the WSP, should be initially considered by the IM Water Oversight Committee. The Committee will be responsible to review, analyze and recommend any proposed “substantive” changes in the Operations Manual. A written summary of the issue and recommendation will be submitted to the full IMMD Board with at least 30 days for the Directors to consider prior to any action at a regular public meeting, unless there are compelling reasons seriously impacting the effectiveness, efficiency, or financial welfare of the WSP, in which case the Board may act sooner.

d. The Board will be responsible for communicating Manual changes in a timely fashion to WSP participants via the IMMD and IMPOA websites, via the WaterWise newsletter, periodic email blasts, and other means deemed effective.

Other Supporting Materials.

Other WSP supporting materials not included in this Operations Manual, but available on the IMMD website at www.indianmountain.info include:

- Intergovernmental Agreement Signed by IMMD and HASP.
- Grant Application Approved by the Park County Land and Water Trust Fund Board on May 3, 2017, for IM WSP Water Acquisition.
- IM WSP Application Form.
- IM WaterWise Newsletters.