

DISTRICT COURT, PARK COUNTY, STATE OF COLORADO P. O. Box 190 Fairplay, Colorado 80440	DATE FILED: June 20, 2014 4:03 PM FILING ID: D885CEE4F7A88 CASE NUMBER: 2014CV30056
Plaintiff: INDIAN MOUNTAIN CORP. v. Defendant: INDIAN MOUNTAIN METROPOLITAN DISTRICT	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Attorneys for Plaintiff Matthew L. Merrill, #37918 Philip E. Lopez, #40484 WHITE & JANKOWSKI, LLP 511 Sixteenth Street, #500 Denver, Colorado 80202 Tele: (303) 595-9441 Fax: (303) 825-5632 matthewm@white-jankowski.com philipl@white-jankowski.com	Case No. 14CV____
COMPLAINT	

Plaintiff, Indian Mountain Corp. (“Indian Mountain”), by and through its undersigned attorneys, files the following Complaint against Indian Mountain Metropolitan District (“District”).

PARTIES

1. Plaintiff Indian Mountain is a Colorado corporation, whose principal address is 112 North Rubey Drive, Suite 101, Golden, Colorado 80403.
2. Defendant District is a metropolitan district organized under C.R.S. § 32-1-101 to -1807, and encompasses land located in Park County, Colorado.
3. Defendant District was previously known as the Indian Mountain Metropolitan Recreation and Park District.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this case under C.R.S. § 13-1-124 because:
 - a. It concerns the ownership of water rights located in Colorado. District courts, and not the water courts, have subject matter jurisdiction to adjudicate disputes over ownership of water rights. *Humphrey v. Sw. Dev. Co.*, 734 P.2d 637, 641 (Colo. 1987).
 - b. It concerns the transaction of business in Colorado.
5. The Court has personal jurisdiction over the District because the District is located in Park County, conducts business in Park County, and the claims listed below arose in Park County.
6. Venue is proper in Park County District Court because the water rights at issue in this case are located in Park County, the claims listed below arose in Park County, and the District is located in Park County.

GENERAL ALLEGATIONS

7. The Indian Mountain subdivision is located generally east of Como in Park County, Colorado.
8. The owners of lots in the Indian Mountain subdivision may drill wells to provide an indoor water supply for their lots.
9. Certain Indian Mountain subdivision lot owners have drilled wells and use those wells for indoor water supply.
10. The wells are allowed to pump water pursuant to the operation of a plan for augmentation decreed by the Division 1 Water Court in Case No. W-7389 on January 2, 1974, *nunc pro tunc* October 1, 1973 (“W-7389 Decree”). *See* Exhibit 1, W-7389 Decree.
11. The W-7389 Decree changed the use of the following water rights (“the Water Rights”) to be used to augment out-of-priority depletions to Tarryall Creek and the South Platte River caused by pumping of domestic wells located on individual lots in the Indian Mountain subdivision:
 - a. 9 cfs of the Slater Ditch originally decreed in Case No. 341, Park County District Court, October 18, 1889 for Priority No. 116, with an appropriation date of May 20, 1880;
 - b. Tarryall Ranch Reservoir No. 1, originally decreed for 33.65 acre feet in Case No.

3286, Park County District Court, March 24, 1953 for Priority A-170, with an appropriation date of December 31, 1923, subject to the terms and conditions of the decree in Case No. W-7389, Water Division 1, entered January 2, 1974, *nunc pro tunc* October 1, 1973;

- c. Tarryall Ranch Reservoir No. 2, originally decreed for 32.93 acre feet in Case No. 3286, Park County District Court, March 24, 1953 for Priority A-228, with an appropriation date of December 31, 1938, subject to the terms and conditions of the decree in Case No. W-7389, Water Division 1, decreed January 2, 1974, *nunc pro tunc* October 1, 1973.

- 12. On June 30, 1975, the Park County District Court created the Indian Mountain Metropolitan Recreation and Park District (“Rec District”) in Civil Action No. 4062, which included the lands in the Indian Mountain subdivision within its boundaries. *See* Exhibit 2, Park County Decree.
- 13. Pursuant to its 1972 Service Plan, the purpose of the Rec District was to provide and maintain recreational facilities and park areas within the Indian Mountain subdivision. *See* Exhibit 3, 1972 Service Plan.
- 14. By statute, the Rec District could not acquire or condemn water rights. C.R.S. § 32-1-1005.
- 15. The Rec District never acquired water rights.
- 16. The Rec District never provided water service to lots in the Indian Mountain subdivision.
- 17. In 2012, the Rec District began a formal process to become a metropolitan district.
- 18. On December 13, 2012, the Rec District presented an Amended and Restated Service Plan for the Indian Mountain Metropolitan District (“Amended Plan”) to the Park County Board of County Commissioners. *See* Exhibit 4, Amended Plan.
- 19. The Amended Plan petitioned for a change to a metropolitan district, which is governed under C.R.S. § 32-1-1004.
- 20. The Amended Plan also petitioned for a name change to Indian Mountain Metropolitan District. *Id.* at 6.
- 21. The Amended Plan states:

The rationale for this petition follows:

....

The Indian Mountain community does not now own or administer the court decreed water augmentation plan governing the 2,500 lots (i.e., wells) in the subdivision. **The IM water augmentation plan [i.e. the Water Rights] is owned and administered by the original developer of the Indian Mountain subdivision, who is now doing business as Indian Mountain Corporation. . . .**

. . . .

. . . this petition [is] to change [the Rec District] to a metropolitan district and to update the associated service plan to enable the community to own and administer [the Water Rights]. . . .

Id. at 4–5 (emphasis added).

22. Pursuant to C.R.S. § 32-1-1004(2), a metropolitan district must provide two or more services.
23. Pursuant to the Amended Plan, the District is required to provide (1) parks and recreation services; and (2) water services. *Id.* at 6–7.
24. With regard to water services to be provided, the Amended Plan states:
 - a. “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.” *Id.* at 7.
 - b. “The District shall have the power and authority to finance, design, construct, acquire, 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.” *Id.*
 - c. “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.” *Id.*
25. The Amended Plan was approved by the Park County Board of County Commissioners on January 3, 2013. *See* Exhibit 5, BOCC Approval.
26. The Park County District Court entered an order changing the name of the Rec District to Indian Mountain Metropolitan District in Case No. 1975CV4062 on February 26, 2013. *See* Exhibit 6, Park County Court Order.
27. The District has not provided water services.

28. The District has not provided potable water within its boundaries.
29. The District has not acquired the Water Rights.
30. The District does not own any water rights that would allow it to provide water service to lot owners in the Indian Mountain subdivision.
31. Indian Mountain owns the following land that is located within the District's boundaries and is taxed by the District:
 - a. Unit 3, Outlot B, Indian Mountain Filing No. 25, located in Section 24, Township 9 South, Range 75 West of the 6th P.M.
32. Indian Mountain owned the Water Rights during 2012 and 2013.
33. Indian Mountain provided augmentation water as contemplated by the W-7389 Decree that allowed lot owners' wells in the Indian Mountain subdivision to operate during 2012 and 2013.
34. The District has not provided any compensation to Indian Mountain for providing services that the District is statutorily required to provide.

CLAIMS FOR RELIEF

First Claim for Relief

(Declaratory Judgment Regarding Indian Mountain's Ownership of the Water Rights)

35. Plaintiff incorporates each of the foregoing paragraphs by this reference.
36. Pursuant to C.R.C.P. 57(a), this Court has "the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. . . . and such declarations shall have the force and effect of a final judgment or decree."
37. Pursuant to C.R.C.P. 57(b), "Any person interested under a deed . . . may have determined any question of construction or validity arising under the instrument . . . and obtain a declaration of rights, status or other legal relations thereunder."
38. At present, there is a controversy between Indian Mountain and the District regarding whether Indian Mountain owns the Water Rights.
39. Indian Mountain seeks a declaration that Indian Mountain owns the Water Rights and that the District has no right, title or interest in the Water Rights.

**Second Claim for Relief
(Unjust Enrichment)**

40. Plaintiff incorporates each of the foregoing paragraphs by this reference.
41. Indian Mountain has conferred on the District the benefit of providing the Water Rights for augmentation water to the lot owners within the Indian Mountain subdivision with domestic wells.
42. By providing the Water Rights for augmentation, Indian Mountain has provided the water services to the Indian Mountain subdivision that the District was specifically created to acquire and provide.
43. By providing the Water Rights for augmentation water, Indian Mountain has prevented the curtailment of wells in the Indian Mountain subdivision.
44. The District has appreciated this benefit because it owns no other water rights and cannot provide water services under the Amended Plan.
45. It would be inequitable for the District to obtain the benefit of Indian Mountain providing the Water Rights for augmentation, including associated services, without payment to Indian Mountain of the value of the Water Rights and associated services that Indian Mountain provided.
46. Indian Mountain is entitled to recover from the District the fair value of the Water Rights provided for augmentation water and related maintenance and operation services, the value of which is at least \$286,000 and the exact amount will be determined at trial.

**Third Claim for Relief
(Declaratory Judgment Regarding the District's Non-compliance with the Amended Plan
and C.R.S. § 32-1-1004)**

47. Plaintiff incorporates each of the foregoing paragraphs by this reference.
48. By statute, the District is required to provide two services. C.R.S. § 32-1-1004(2).
49. The District is currently not providing water services, which is one of the two services required under the Amended Plan.
50. The District's Amended Plan specifically limits the water services that the District can provide:
 - a. "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.” Amended Plan at 7.

- b. “The District shall have the power and authority to finance, design, construct, acquire, 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.” *Id.*
- c. “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.” *Id.*

51. The District cannot provide water services now or in the future under the current terms of the Amended Plan:

- a. The Amended Plan states the District has no planned facilities, infrastructure, or development projects for its water services, so it cannot provide a potable water supply. *Id.* at 10.
- b. The District cannot acquire the Water Rights by condemnation, so it cannot acquire the Water Rights to provide augmentation water as allowed under the Amended Plan. *Id.* at 7.
- c. The District has refused to contract with Indian Mountain to provide the Water Rights for augmentation water.

52. A metropolitan district must comply with its service plan. *Plains Metro. Dist. v. Ken-Caryl Ranch Metro. Dist.*, 250 P.3d 697, 700 (Colo. App. 2010).

53. Because the District is not providing and cannot provide two services, it is not in compliance with the Amended Plan.

54. Because the District is not providing and cannot provide two services, it cannot be a metropolitan district pursuant to C.R.S. § 32-1-1004(2).

55. Indian Mountain seeks a declaration that the District is not in compliance with the Amended Plan and C.R.S. § 32-1-1004(2) and cannot be a metropolitan district since it cannot provide water services.

**Fourth Claim for Relief
(Injunctive Relief)**

56. Plaintiff incorporates each of the foregoing paragraphs by this reference.

57. Pursuant to C.R.S. § 32-1-207(3), “Any material departure from the service plan as originally approved or, if the same has been modified, from the service plan as modified, which constitutes a material modification . . . may be enjoined by the court approving the organization of such special district upon its own motion . . . or upon the motion of [property owners within the district].”
58. The District is not complying with the Amended Plan or C.R.S. § 32-1-1004(2) because it refuses to and is unable to provide the water services described in the Amended Plan.
59. Indian Mountain seeks an order from the Court enjoining the District from taking any action as a metropolitan district or water service provider within its boundaries because it is not in compliance with the Amended Plan and C.R.S. § 32-1-1004(2).

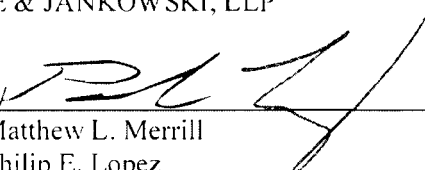
PRAYER FOR RELIEF

Based on the allegations in this Complaint, Plaintiff prays that this Court:

- A. Declare that Indian Mountain owns the Water Rights and that the District has no right, title or interest in the Water Rights.
- B. Award Indian Mountain the fair value of the temporary use of the Water Rights and maintenance and operational services previously provided to the District in an amount to be determined at trial.
- C. Declare that the District is not in compliance with the Amended Plan and C.R.S. § 32-1-1004(2) because it cannot provide water services.
- D. Enjoin the District from taking any action as a metropolitan district because it is not in compliance with the Amended Plan and C.R.S. § 32-1-1004(2).
- E. Award Indian Mountain pre and post-judgment interest, costs, attorneys’ fees and other such relief as the Court deems appropriate under the circumstances.

DATED this 20th day of June, 2014.

WHITE & JANKOWSKI, LLP

By: 
Matthew L. Merrill
*Philip E. Lopez

Efiled per C.R.C.P. 121
Duly signed original on file at White & Jankowski, LLP

ATTORNEYS FOR PLAINTIFF

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IN THE DISTRICT COURT IN AND FOR
WATER DIVISION NO. 1
STATE OF COLORADO
Case No. W-7389

IN THE MATTER OF THE APPLICATION)
FOR WATER RIGHTS OF MERIDIAN) FINDINGS OF FACT, CONCLUSIONS
PROPERTIES, INC., in the SOUTH) OF LAW AND DECREE MODIFYING
PLATTE RIVER, TRIBUTARY INVOLVED:) WATER RIGHTS AND APPROVING
TARRYALL CREEK in PARK COUNTY.) PLAN OF AUGMENTATION

THIS MATTER, having come on for hearing upon the application of Meridian Properties, Inc. for change of water rights and approval of plan for augmentation which was filed on May 31, 1973, and the Court having considered the pleadings, the files herein and the evidence DOTH FIND:

1. Timely and adequate notice of the pendency of these proceedings has been given in the manner required by law and the Water Judge sitting in this Court has jurisdiction over the subject matter of these proceedings and over all who have standing to appear as parties, whether they have appeared or not.

2. The City and County of Denver acting by and through its Board of Water Commissioners and the Central Colorado Water Conservancy District have appeared and filed statements of opposition; the consent of those objectors to the entry of this amended decree, and the withdrawal of their statements of opposition is evidenced by their authorized signatures on the original decree entered October 4, 1973. The amendments made to this amended decree are procedural in nature and do not affect the substantive rights of objectors and their withdrawal as evidenced by their authorized signatures on the original decree apply to this amended decree. No others have appeared to object to the proceedings and the time for filing any other statements of opposition has expired.

3. The applicant owns approximately 10,000 acres of land located in Township 9 South, Ranges 75 and 76 West of the 6th P.M. in Park County, Colorado, the boundaries of which are identified in the attached Exhibit A; the applicant proposes to develop the land it owns, which is called Indian Mountain, for various residential uses which plan proposes the ultimate development of 5,250 single-family residential equivalent units within the boundaries of the development.

4. The applicant owns the following described water rights, to wit:

A. The right to the use of 27 c.f.s. out of Tarryall Creek for irrigation purposes with date of appropriation of May 20, 1880 as decreed to the Slater Ditch by the District Court of Park County of October 18, 1889.

B. The right to store 33.65 acre-feet of the water of Tarryall Creek in the Tarryall Ranch Reservoir No. 1 for use for irrigation purposes with date of appropriation of December 31, 1923 as decreed by the District Court of Park County on March 24, 1953.

C. The right to store 32.93 acre-feet of water from Tarryall Creek occurring as waste water from the Slater Ditch in the Tarryall Ranch Reservoir No. 2 with date of appropriation of December 31, 1938 as decreed by the District Court of Park County of March 24, 1953.

The water rights thus owned by the applicant are the subject of this application and will be modified to the extend necessary to implement the plan of augmentation approved herein.

5. The Tarryall Ranch Reservoirs Nos. 1 and 2 are off-channel reservoirs which are filled with water diverted through the Slater Ditch. The place of storage of the Tarryall

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Ranch Reservoir No. 1 is behind a dam, the southwest end of which is located at a point whence the Northwest corner of Section 12, Township 9 South, Range 76 West of the 6th P.M. bears North $37^{\circ} 35'$ West a distance of 2096 feet more or less. The place of storage of the Tarryall Ranch Reservoir No. 2 is behind a dam, the midpoint of which is located at a point whence the Northwest corner of Section 12, Township 9 South, Range 76 West of the 6th principal meridian bears North $46^{\circ} 15'$ West a distance of 1109.8 feet more or less. Water withdrawn from storage in the said reservoirs is released to Park Gulch, a tributary of Tarryall Creek, which is used to convey water from said reservoirs to Tarryall Creek for the purposes contemplated by the plan approved herein.

6. The historic use of water diverted through the exercise of the water right decreed to the Slater Ditch has been for the irrigation of 230 acres of land within the water shed of Park Gulch; the duty of water resulting from that historic use is represented by the ratio of 1 c.f.s. to each 8.51 acres of land irrigated with an average consumptive use resulting from evapotranspiration and other losses of 6.96 acre-feet per c.f.s. per year or approximately .66 acre-feet per acre of irrigated land per year.

7. Because of the nature of the proposed domestic use of water for the 5,250 single-family residential equivalent units planned for the Indian Mountain development, the consumptive use which is expected to occur, with full development, without irrigation of the land developed, is expected to equal 33.1 acre-feet per year or 2055 gallons per unit per year; some depletion from such use is expected to occur during the period from November 1 to May 1 when water has not been historically diverted through the exercise of the water right decreed to the Slater Ditch.

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8. The source of supply for the domestic water service for the 5,250 single-family residential equivalent units, is from ground water occurring in the alluvium of Tarryall Creek and Park Gulch which is hydraulically connected with and supports the flow of water in Tarryall Creek and Park Gulch; the means of diversion for the production of water for such service will either be through individual, on-lot, domestic wells drilled under permits issued by the State Engineer's Office under the provisions of '63 C.R.S. 148-21-45 or through larger capacity wells required to produce water for multiple unit structures for domestic water service without irrigation.

9. If no augmentation program is instituted to offset depletions expected to result from the use of water for the 5,250 single-family residential equivalent units, material injury would occur to other water rights in the South Platte River, for the protection of which the State Engineer of Colorado has indicated a predisposition to deny applications for well permits for this project and, through various sets of proposed rules and regulations has indicated that diversions through wells other than those drilled pursuant to permits issued under '63 C.R.S. 148-21-45 would be curtailed with a resultant inadequate water supply for the development. It is to eliminate the projected injury to other water rights in the South Platte River, to assure the granting of permits for wells under '63 C.R.S. 148-21-45 and other provisions of the law and to prevent curtailment of diversions through facilities required to serve the 5,250 single-family residential equivalent units that the applicant has presented its plan of augmentation to this Court for approval.

10. The applicant's proposed plan of augmentation contemplates the permanent removal from irrigation of enough of the lands historically irrigated by use of the Slator Ditch

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water right to reduce the consumptive use resulting from the exercise of that right in an amount necessary to offset the consumptive use expected to occur as a result of the provision of domestic water service for the 5,250 single-family residential equivalent units. To accomplish this result, it is necessary to modify a portion of the Slater Ditch water right so as to permit storage in Tarryall Ranch Reservoir No. 2 of 33.42 acre-feet of water per year, a result which can be accomplished by permanently removing from irrigation 42.55 acres of land historically irrigated by the exercise of that water right. The waters to be stored as a result of such modification will be stored in the Tarryall Ranch Reservoir No. 2 at a rate of flow not to exceed 5.00 c.f.s. The waters thus stored will be released, under the supervision of the Division Engineer of Water Division No. 1, at times and in amounts when, by reason of senior calls on the river, the Slater Ditch water is not in priority or, during the period from November 1 to May 1, when the Slater Ditch has not historically been used. The amounts and rates of flow of withdrawal of water stored under the modified portion of the Slater Ditch water right as well as water stored under the water rights originally decreed to the Tarryall Ranch Reservoirs Nos. 1 and 2, shall be ordered by the State Engineer so as to meet, as nearly as possible, the simultaneous consumptive use occurring as a result of the use of water for the number of single-family residential equivalent units being used, from time to time, in the Indian Mountain development; provided that the total aggregate sum of such withdrawals during the period from May 1 to November 1 shall not exceed 22.4 acre feet and during the period from November 1 to May 1 shall not exceed 10.7 acre-feet. In addition, the applicant will permanently remove from irrigation an additional 34.04 acres of land historically irrigated by use of the Slater Ditch water right and abandon to Tarryall Creek 4.0 c.f.s. of the Slater Ditch water right so as to more than

offset 22.4 acre-feet of consumptive use expected to occur as a result of the production of water for domestic and municipal water service for 5,250 single-family residential equivalent units during those periods from May 1 to November 1 when the Slater Ditch water right is in priority.

11. The Court finds that by the imposition of the conditions set forth in these findings, a portion of the Slater Ditch water right and the storage rights originally decreed to the Tarryall Ranch Reservoirs Nos. 1 and 2, may be modified without adversely affecting the water rights of any other appropriators in the South Platte River, and that by the institution of the augmentation program herein approved, the applicant, its successors or assigns, may secure permits for and use on-site domestic wells under the provisions of '63 C.R.S. 148-21-45 or, under other provisions of the law, larger capacity wells required to serve multiple unit structures or multiple units in separate structures, all without adversely affecting any other water right in the South Platte River Basin and without the necessity for diversions through the facilities required to serve the 5,250 single-family residential equivalent units to be curtailed in times of shortage to make water available for rights more senior than the rights created by the use of the structures required to supply those single-family residential equivalent units.

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CONCLUSIONS OF LAW

The Court concludes as a matter of law that:

1. The modifications sought for the portion of the water right decreed to the Slater Ditch and for the water rights originally decreed to the Tarryall Ranch Reservoirs Nos. 1 and 2 under the conditions set forth herein will not adversely affect

any other water right in the South Platte River Basin and may be lawfully decreed by this Court;

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2. The plan of augmentation proposed by the application is one which is contemplated by law, and if administered in accordance with this decree will permit the depletions associated with the provision of domestic and municipal water service, without irrigation, to 5,250 single-family residential equivalent units in the Indian Mountain subdivision, all without adversely affecting any other water right in the South Platte River Basin;

3. The State Engineer may lawfully be required under the terms of this decree to administer the plan of augmentation in the manner set forth herein and to grant permits for wells for 5,250 single-family residential equivalent units either for individual wells per unit under the provisions of '63 C.R.S. 148-21-45 or for larger wells for multiple-family units or multiple units of single-family dwellings, and not to curtail diversions, in times of shortage, through any of the wells used to provide domestic water service for the 5,250 residential equivalent units, the depletions for which are offset by the operation of the augmentation plan herein approved.

4. While the precise location of each well to be augmented by this plan is not presently known, the recording, in these proceedings, of the location for each such well at the time application for a permit therefor is made, will provide the certainty required to assure the proper implementation of the plan herein approved. In the case of this plan, such recording can satisfactorily occur by requiring that the applicant for each well to be augmented, notify the Water Clerk of the location of the proposed well by reference to a specific lot delineated on the applicable Indian Mountain Subdivision plat, 24 of which have been admitted as exhibits in this case for that purpose.

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5. The current interpretation by the Water Judges of the State of the provisions of '63 C.R.S. 148-21-18(1)(d) as requiring a payment of a docket fee of \$5.00 for each facility to be augmented recognizes the cost to the judicial system of making an adequate record of the implementation of an augmentation plan as that implementation may occur over a period of time; but since that recording cost does not occur all at once upon the initial entry of the decree approving the plan of augmentation but, instead, occurs over an extended period of time as the wells to be augmented are constructed, there is no need to require the payment of docket fee for each structure at the time the application for approval of the plan is filed so long as provision is made for the subsequent payment as the wells are constructed and their location identified and recorded in the Court records.

DECREE

IT IS THEREFORE ORDERED ADJUDGED AND DECREED AS FOLLOWS:

1. The water rights decreed to the Tarryall Ranch Reservoirs Nos. 1 and 2 are modified so as to include the storage of water thereunder and subsequent withdrawal therefrom for domestic and municipal uses to offset depletions resulting from the provision of domestic and municipal water service to 5,250 single-family residential equivalent units within the boundaries set forth on the attached Exhibit 1.

2. The right to 5.0 c.f.s. out of the water right decreed to the Slater Ditch is modified to permit the diversion of that rate of flow for storage in the Tarryall Ranch Reservoir No.

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2 of a total amount of not more than 33.42 acre-feet of Tarryall Creek water per year in addition to such water as may be available for storage under the right originally decreed to that facility, such water to be held for release to Park Gulch and Tarryall Creek for domestic and municipal purposes in offsetting depletions to Tarryall Creek and the South Platte River resulting from the provision of domestic and municipal water service to 5,250 single-family residential equivalent units located or to be located within the boundaries of the Indian Mountain development as shown on the attached Exhibit A.

3. There is hereby abandoned to Tarryall Creek and the South Platte River out of the water right decreed to the Slater Ditch the right to 4.0 c.f.s. of flow representing at least the historic consumptive use during the irrigation season of 22.4 acre-feet per year.

4. 76.59 acres of land lying under the Slater Ditch which has historically been irrigated with water diverted from the exercise of the water right decreed to that ditch, shall be permanently removed from irrigation with water from Tarryall Creek, Park Gulch, their tributaries or underflow. The land thus removed from irrigation is located within Section 13, Township 9 South, Range 76 West and Section 18, Township 9 South, Range 75 West of the 6th P.M., identified by reference to the crosshatched area within the irrigated acreage boundaries shown on Exhibit B attached hereto. This decree shall be recorded in the public records of Park County, Colorado and this order drying-up the portion of the land historically irrigated under the Slater Ditch shall constitute a covenant running with the title to that land which shall be specifically enforceable upon the application of the objectors herein.

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5. Water may not be diverted under the 5.0 c.f.s. portion of the Slater Ditch water right which has been converted to storage for any purpose other than to provide up to but not more than 33.42 acre-feet of water storage per year in the Tarryall Ranch Reservoir No. 2, and once that volume of water shall have been stored through the exercise of that modified portion of the Slater Ditch water right in a given year, the amount of headgate diversion thereafter lawfully available for diversion under that right during the remainder of the season from May 1 to November 1 shall not exceed a rate of flow of 18 cubic feet per second of time.

6. The applicant, its successors and assigns may not divert, for irrigation of land under the Slater Ditch, more than 18.0 c.f.s., and water thus diverted may not be applied to the irrigation of more than 153.41 acres of land lying under that ditch and described by reference to the shaded portion of the historic irrigated area set forth on the attached Exhibit B. The use of the 18.0 c.f.s. of the Slater Ditch water right for irrigation may not be enlarged for the irrigation of more than 153.41 acres without injuring other water rights on the South Platte River.

7. The State Engineer, the Division Engineer of Water Division No. 1 and other water administrative officials charged with the responsibility of administering the waters of Tarryall Creek and the South Platte River shall administer the plan of augmentation approved herein in the following manner:

A. At such times during the period May 1 to November 1 as diversions under the water right decreed to the Slater Ditch are reduced or curtailed to make water available for more senior rights, the applicant, its successors or assigns shall be ordered to release from the waters stored in the Tarryall Ranch

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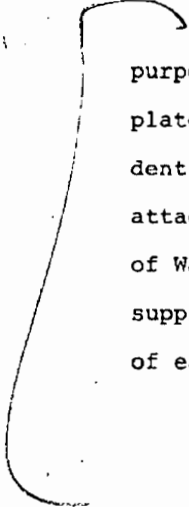
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Reservoirs Nos. 1 or 2 a volume of water at a rate of flow determined by the Division Engineer of Water Division No. 1 to be adequate to offset depletions then simultaneously occurring as a result of the provision of domestic and municipal water service to the number of single-family residential equivalent units then being served within the Indian Mountain development. The total, aggregate amount of such releases for that season shall not exceed 22.4 acre-feet.

B. During the period from November 1 to May 1 of each water year, the Division Engineer shall require the applicant, its successors or assigns to release from storage in the Tarryall Ranch Reservoirs Nos. 1 and 2 such amounts of water at such rates of flow as may be found necessary to offset the then occurring simultaneous depletions resulting from the provision of domestic and municipal water service to the then existing number of single-family residential equivalent units being served within the Indian Mountain development. The total, aggregate amount of such releases required during that period shall not exceed 10.7 acre-feet.

C. The State Engineer, in the discharge of his responsibility with respect to the processing of applications for permits to drill wells and use ground water for the provision of domestic or municipal water service to 5,250 single-family residential equivalent units within the Indian Mountain development, either through individual on-lot wells sought under the provisions of '63 C.R.S. 148-21-45 or through wells applied for under other provisions of the law which may be required to supply multi-family units or multiples of single-family units shall recognize the existence and operation of this plan of augmentation and shall not deny applications for wells for the

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purposes herein mentioned and within the amounts herein contemplated, but shall require the applicant, as a condition precedent to the issuance of any such well permit, to file, as an attachment to his application, a receipt from the Water Clerk of Water Division No. 1 for the payment herein of a \$5.00 supplemental docket fee for the recording in these proceedings of each well applied for.

D. The State Engineer and Division Engineer of Water Division No. 1, shall not, at the request of senior appropriators, order the curtailment of diversion through wells used to provide domestic and municipal water service to the 5,250 single-family residential equivalent units for which this plan of augmentation has been approved so long as the plan of augmentation is being administered in accordance with the terms of this decree.

DATED THIS 2nd day of January, 1974,
nunc pro tunc as of the 1st day of October, 1973.

Ronald A. Casper
WATER JUDGE
Water Division No. 1
State of Colorado

IN THE DISTRICT COURT IN AND FOR THE
COUNTY OF PARK, STATE OF COLORADO
ELEVENTH JUDICIAL DISTRICT
Civil Action No. 4062

IN RE THE ORGANIZATION OF INDIAN)
MOUNTAIN METROPOLITAN RECREATION) FINDINGS, ORDER AND
AND PARK DISTRICT, PARK COUNTY,) DECREE CREATING DISTRICT
COLORADO)

This matter coming on to be heard in open court upon the Certificate of Election Returns filed by the Judges of Election heretofore appointed and upon the Official Abstract of Votes Cast filed herein by the Clerk of this Court canvassing said election returns, all relating to an election held on the 17th day of June, 1975, at which election there was submitted to the qualified electors the matter of the organization of Indian Mountain Metropolitan Recreation and Park District, Park County, Colorado, and this Court having considered documentary evidence, and being fully advised in the premises, does hereby FIND:

1. That the question of the organization of the Indian Mountain Metropolitan Recreation and Park District was duly submitted to the qualified electors at an election duly held at the time and place and by the Judges of Election specified in the Order of this Court duly entered of record on the 19th day of May, 1975.

2. That the required Notice of Election was duly published in compliance with the aforementioned Order and in accordance with the requirements of law; that all of the ballots were cast at said election by qualified electors of the District; that the Judges of Election have duly certified their election returns to this Court as required by law; and that the Clerk of this Court has duly canvassed the election returns, which canvass and returns show the election results to be as stated herein.

3. That the following ballots were cast on the question of organization of the District:

FOR the organization of Indian Mountain Metropolitan Recreation and Park District	VOTES CAST
Nine	(9)

AGAINST the organization of Indian Mountain Metropolitan Recreation and Park District	VOTES CAST
Zero	(0)

Total Votes Cast:	(9)
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4. That no Colorado home rule municipal corporation has filed a petition herein for exclusion of property located within any such municipal corporation.

5. That all of the provisions of law, and more particularly all of the requirements of Colorado Revised Statutes 1973, Title 32, Article 2, and Title 32, Article 1, have been complied with, met and performed, in the organization of said District.

6. That the signatures appearing on all documents filed herein are genuine.

And the Court being fully advised in this matter, IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That this Court has jurisdiction in all matters pertaining to the within action as provided by law.

2. That the District which is the subject of the within action has been, and is hereby declared, duly and regularly organized and is named and shall be known as "Indian Mountain Metropolitan Recreation and Park District," in Park County, Colorado.

3. That the District is located entirely within Park County, Colorado, and the boundaries of the said District and the territory to be included therein is described as follows:

A tract of land lying within the County of Park,
State of Colorado, to-wit:

Section 6, Lot 6;
 Section 7, Lot 3, E1/2 W1/2, S1/2 NE1/4; SE1/4
 Section 8, SW1/4 NW1/4, SW1/4;
 Section 10, S1/2
 Section 11, S1/2, SW1/4 NW1/4;
 Section 12, NW1/4 SW1/4;
 Section 14, W1/2, N1/2 S1/2, S1/2 SW1/4, SW1/4 SE1/4;
 Section 15, NW1/4 NW1/4, E1/2 NW1/4, NE1/4, S1/2;
 Section 17, N1/2 NW1/4, S1/2 SW1/4, NW1/4 SW1/4;
 Section 18, E1/2, S1/2 NW1/4, NE1/4 NW1/4, NE1/4 SW1/4;
 Section 19, E1/2;
 Section 20, SE1/4 SW1/4, W1/2 SW1/4, NW1/4;
 Section 21, all;
 Section 22, W1/2, W1/2 SE1/4;
 Section 23, W1/2, W1/2 NE1/4, SE1/4;
 Section 24, S1/2 SE1/4 NE1/4;
 Section 25, all;
 Section 26, all;
 Section 27, E1/2, E1/2 NW1/4;
 Section 28, NW1/4;
 Section 29, E1/2 NE1/4, N1/2 NW1/4;
 Section 30, N1/2 NE1/4;
 Section 34, E1/2, SW1/4, S1/2 NW1/4;
 Section 35, all;
 all in Township 9 South, Range 75 West of the
 6th P. M., and
 Section 1, SE1/4, SW1/4 SW1/4, all of the E1/2
 SW1/4 lying North of the County Road;
 Section 2, SE1/4 SE1/4;
 Section 11, NE1/4 NE1/4;
 Section 12, NW1/4 NW1/4;
 Section 13, N1/2 NE1/4, SE1/4 NE1/4, NE1/4 NW1/4;
 all in Township 9 South, Range 76 West of the
 6th P. M., and
 Section 2, Lot 2, W1/2 Lot 1;
 Section 3, E1/2 Lot 1;
 Section 14, NE1/4 SE1/4,
 all in Township 10 South, Range 75 West of the
 6th P. M., TOGETHER WITH, but not by way of
 limitation, all interest in the Harland Ditch
 and 27.0 Cu. Ft. of water per second of time
 allowed to flow therein under Priority No. 86;
 all interest in the Slater Ditch and 27.0 cu.
 ft. of water per second of time allowed to
 flow therein under Priority No. 116; all
 interest in the Park Gulch Ditch, Priority No.
 A-169; Tarryall Ranch Reservoir No. 1,
 Priority No. A-170; Tarryall Ranch Reservoir
 No. 2, Priority No. A-288; all water and water
 rights for water used on the above-described
 land and/or appurtenant thereto; and, all
 easements and rights of ingress and egress to
 and from the above-described land as now
 established and in use.

The tract contains 10,000 acres, more or less.

4. That the following are the names of five electors residing within the boundaries of said District who are designated as and who shall constitute the first Board of Directors of the District, three of the Directors to hold office until the first biennial election of the District and two of the Directors to hold office until two years after said first biennial election:

Directors to serve until the first biennial election:

Jerry R. Dunn
Dennis B. Stimson
James H. Peterson

Directors to serve until the second biennial election:

W. H. Heidtbrink, Jr.
Ted R. Shipman

5. That said District shall be a governmental subdivision of the State of Colorado, and a body corporate with all of the powers of a public or quasi-municipal corporation; that the facilities, services and financial arrangements of the District shall conform as far as practicable to the approved service plan and resolution of approval of the Board of County Commissioners of Park County, Colorado. The approved service plan and resolution required by Title 32, Article 1, Part 2, Colorado Revised Statutes 1973, previously filed in the within action shall be, and the same are hereby, incorporated by reference in and appended to this Order.

6. That the above named duly designated Board of Directors of the District, and their lawful successors, shall take such steps and proceedings as the needs of the District require. Within thirty (30) days after the date hereof, the Clerk of this Court shall transmit to the County Clerk and Recorder of Park County, Colorado, and to the County Assessor of said County, true and correct copies of this Findings, Order and Decree Creating District, with the

Resolution of Approval appended hereto, for filing in their offices. Notice of the completion of the organization of the District shall be filed in duplicate and recorded with the County Clerk and Recorder of Park County, Colorado, and a certified duplicate copy of said notice shall be filed with the Division of Local Government of the State of Colorado.

7. That the District shall have and exercise through its proper officers all of the power and authority conferred upon Metropolitan Recreation and Park Districts under and by virtue of the provisions of Title 32, Article 2, Colorado Revised Statutes, 1973, as amended, and all laws thereunto enabling, and all such power and authority as may hereafter be conferred by law.

8. That the Judges' Certificate of Election Returns filed herein and the Official Abstract of Votes Count canvassing said election returns filed herein, be and the same hereby are, in all respects, approved and confirmed.

9. That the members of the Board of Directors of the District shall qualify for office and organize said Board in the manner prescribed by the laws of the State of Colorado, and shall file with the Clerk of this Court their oaths of office, and individual, schedule, or blanket corporate surety bonds at the expense of the District in an amount of \$1,000.00 for each director, with the form of said bonds to be conditioned for the faithful performance of the duties of said directors.

DONE IN OPEN COURT this 30th day of June, 1975.

BY THE COURT:

151 Harold E. Ruddy
Judge

CLERK OF COURT
STATE OF COLORADO
JULY 2 1975
James M. Ireland
Clerk of the District Court



SERVICE PLAN
FOR
INDIAN MOUNTAIN
METROPOLITAN RECREATION AND PARK DISTRICT
PARK COUNTY, COLORADO

INTRODUCTION

Today, there is a recognized need for parks and open space within our residential areas. Past experience has shown us the results of failing to provide mankind with adequate open space in which to relax or seek recreational experiences. It is during the planning stages that provision for park land and recreational sites should be made in order to incorporate a correlation with proposed development. The following discussion outlines a program to meet the recreational needs anticipated at Indian Mountain. Formation of a park and recreation district will enable this community to provide financing for maintenance and development of the proposed park areas.

DEVELOPER

Indian Mountain is a planned mountain community being developed by Park Development Company, 1801 First

900624

National Bank Building, Denver, Colorado, 80202. The developer proposes to pay all expenses incurred in the organization of the District, including, but not limited to, architectural, engineering and legal. The developer further proposes to pay all costs of construction for the initial development of the proposed park areas and recreation facilities. The land will also be provided by the developer.

No general obligation bonds will be required for the formation and initial development of the District. It is proposed that the District enter into an agreement to purchase from the developer the park areas and recreational facilities encompassed within the Service Plan by means of a leasing arrangement on such terms and conditions as the circumstances and needs of the District will permit, and with an option in the District to renew such agreement from year to year. The District would levy the rate of four (4) mills on the valuation for assessment of the taxable property in the District; which levy, together with other sources of revenue, would raise sufficient revenue to pay the costs of leasing, operating and maintaining the recreational facilities of the District. The developer further proposes to contribute such funds to the District, after its organization, as may be necessary to balance out any "After Expenses Deficit".

SCOPE

In order to establish the scope of park development, it is necessary to first examine the present and projected population of Indian Mountain. The present population is approximately twenty-five (25). The expected population is determined by projecting the total number of single family equivalent dwelling units and then multiplying them by the average number of people per unit, as follows:

775 single-family equivalent dwelling units x 3.5 people/unit =	2,713
Projected population rounded for planning purposes to:	2,700

Through experience, experts in the field of urban planning have established certain standards which serve as "guide lines" in determining land requirements for parks based on population. These standards are useful in determining the desirable amount of land for parks and open space, rather than the minimum amount necessary. The desirable amount of land for parks, parkways, pedestrian ways, greenways and open space as determined by these standards is 5.0 acres per 1,000 population. Applied to the projected population for Indian Mountain, these standards indicate the following acreage requirement for this development:

2.7 x 5.0 acre/1,000 pop. = 13.5 acres

Actual land proposed for use as park or recreational land in this development is approximately 650 acres. A proposed nine hole golf course will utilize 50.0 to 75.0 acres, with the potential of future expansion which will double its size. A proposed ski area will have 20.0 to 25.0 acres of ski slopes and trails. The remaining acreage will be used for other facilities which the developer proposes to construct. These facilities will include picnic areas, equestrian trails, a snowmobile oval and several lakes.

A map of the development showing the proposed golf course, ski area and other recreational areas, as well as the project boundaries, is attached hereto and incorporated herein by this reference.

DEVELOPMENT PROGRAM

It is projected that Indian Mountain will be fully developed by the end of 1976. Table I, attached hereto, shows the projected number of single family equivalent dwelling units, projected population and projected total value of the Indian Mountain Development. The present population is approximately twenty-five (25), and the present valuation for assessment is approximately \$75,000.00. The projected total population at

the end of 1976 is 2,700. The projected total value of the development at the end of 1976 is twenty-five million dollars.

Recreational facilities will add immeasurably to the market appeal of the project, and it is recommended that these facilities be completed during the early phases of construction of the development program.

The development plan for Indian Mountain provides for the immediate development of major recreational facilities, such as the golf course and ski area. Construction of the nine hole golf course is scheduled for 1972, with expansion proposed for 1973. Construction of the ski area will begin in 1971, with an expansion proposed for 1972. The additional park and picnic areas, equestrian trails, snowmobile oval and lakes will be developed concomitantly with the major facilities.

The developer proposes to fund the construction of all initial facilities. It is contemplated that the District would enter into an agreement to purchase such park areas and recreational facilities as are encompassed within this Service Plan by means of a leasing agreement with the developer on such terms and conditions as the circumstances and needs of the District will permit, and with an option in the District to renew such agreement from year to year.

The projected development costs for the golf course and ski area are shown on Tables II and III. The estimated

annual maintenance and operating expense for each facility is outlined on Table IV. Expansion of the golf course and ski area can be expected to add approximately twenty-five percent (25%) to the annual maintenance costs for these facilities.

SUMMARY

This Service Plan presents a feasible development program for recreational facilities and park areas at Indian Mountain. Scientific investigation, as well as past experience, have shown how essential it is to provide such facilities in any well planned community. Early provision is being made for these facilities so that they can be logically incorporated into the total development plan for the entire project. Formation of a metropolitan recreation and park district will enable the community to finance the operation and maintenance and the purchase through a leasing arrangement with the developer of the recreational facilities and park areas proposed in this Service Plan by means of a four (4) mill levy upon the projected valuation for assessment of the taxable property within the District boundaries. The recreational facilities will also generate revenue through fees and charges for the use of the facilities, thus providing additional funds to supplement the proposed mill levy. In addition, the developer proposes to contribute such funds to the District, after its organization,

as may be necessary to balance out any after expenses deficit.
It is believed that general obligation bonds will not be
required; therefore, the Service Plan does not contemplate the
issuance of such bonds to provide an additional source of
revenue for the District.

J. Buckley

Madie R. Sisman

H. H. Heitbrink

James H. ...

[Signature]

TABLE I

Year	Dwelling Units		Population		Projected Value (1)	
	Single Family Equivalents	Annual Increase	Total	Annual Increase	Total	
1971	30		105		\$ 750,000.00	
1972	100	350	455	\$2,750,000.00	3,500,000.00	
1973	155	543	998	4,688,800.00	8,118,800.00	
1974	155	543	1,541	5,157,600.00	13,346,400.00	
1975	160	560	2,101	5,376,500.00	18,722,900.00	
1976	175	612	2,713	6,468,500.00	25,191,400.00	
TOTALS	775		2,713		\$25,191,400.00	

(1) Single Family Equivalents: Base Cost/unit (1971) = \$25,000.00
 Projected value reflects a 10% per
 year increase in cost/unit.

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TABLE II

CONSTRUCTION AND EQUIPMENT COSTS
GOLF COURSE (9 Hole)1971

Feasibility studies \$ 1,000.00

1972

Land (60.0 acres) \$ 96,000.00

Construction Costs:

General construction (excavation,
grading and seeding) \$35,800.00Irrigation system (automatic
watering system) 28,400.00

Design Fees 5,300.00

Contingency fee to cover unforeseen
costs 13,700.00

TOTAL Construction Costs 83,200.00

Equipment Purchases:

Heavy Equipment (tractors, trucks) \$ 7,400.00

Mowing equipment 6,400.00

Maintenance equipment 1,500.00

Golf equipment and tools 250.00

Shop tools 1,000.00

Hand tools 250.00

TOTAL Equipment Costs 16,800.00

TOTAL COSTS \$197,000.00

1973

Construction Costs:

Expansion of golf course to 18 hole \$ 89,000.00

Land (60.0 acres) 96,000.00

TOTAL COSTS \$185,000.00

Summary of Land, Construction and Equipment Costs:

1971 \$ 1,000.00

1972 197,000.00

1973 185,000.00

\$383,000.00

TABLE III

CONSTRUCTION AND EQUIPMENT COSTS
SKI AREA

1971

Land (12.5 acres)	\$ 20,000.00
Feasibility studies, flagging, surveying, cutting, clearing trails and installation of two rope tow lifts	15,000.00
Miscellaneous equipment	<u>2,000.00</u>
TOTAL COSTS	<u>\$ 37,000.00</u>

1972

Ski area expansion	\$ 43,000.00
Land (12.5 acres)	<u>20,000.00</u>
TOTAL COSTS	<u>\$ 63,000.00</u>

Summary of Construction and Equipment Costs:

1971	\$ 37,000.00
1972	<u>63,000.00</u>
	<u>\$100,000.00</u>

TABLE IV

MAINTENANCE AND OPERATION COSTS

GOLF COURSE (9 hole)
(7 month operation beginning in 1972)

<u>Labor</u>		
Manager (\$500.00/mo. for 12 months)	\$6,000.00	
Others (\$1,000.00/mo.)	<u>7,000.00</u>	\$13,000.00
Contractual services (none with municipal or county governments)		3,500.00
Commodities (fertilizer, seed, utilities, etc.)		<u>7,300.00</u>
Contingency - 10% (increased and unforeseen costs)		<u>2,380.00</u>
TOTAL Maintenance Costs		<u>\$26,180.00</u>

SKI AREA
(4 month operation beginning in 1971)

<u>Labor</u>		
Lift operator (\$500.00/mo.)		\$ 2,000.00
Contractual services (none with municipal or county governments)		2,100.00
Utilities		<u>1,200.00</u>
Contingency - 10% (increased and unforeseen costs)		<u>\$ 5,300.00</u>
		520.00
TOTAL Maintenance Costs		<u>\$ 5,820.00</u>

Summary of Maintenance and Operation Costs:

Golf Course (9 hole)	\$26,180.00
Ski Area	<u>5,820.00</u>
	<u>\$32,000.00</u>

NOTE: Manager of golf course will also manage ski area. Part of manager's compensation will come from operation of concessions at golf course and ski area.

TABLE III
 CONSTRUCTION AND EQUIPMENT COSTS
 SKI AREA

1971

Land (12.5 acres) @ no cost to District	\$ 0.00
Feasibility studies, flagging, surveying, cutting, clearing trails and installation of two rope tow lifts	15,000.00
Miscellaneous equipment	<u>2,000.00</u>
TOTAL COSTS	\$17,000.00

1972

Ski area expansion	\$43,000.00
Land (12.5 acres) @ no cost to District	0.00
TOTAL COSTS	\$43,000.00

Summary of Construction and Equipment Costs:

1971	\$17,000.00
1972	<u>43,000.00</u>
	\$60,000.00

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000635

**The Amended and Restated Service Plan
for the
Indian Mountain Metropolitan District**

(Formerly Indian Mountain Recreation and Park District)

Submitted by

Board of Directors
Indian Mountain Recreation and Park District
P.O. Box 25
Como, Colorado 80432
indianmtn@hotmail.com

Submitted to

Board of County Commissioners
Park County, Colorado
November 12, 2012

**Presented to the Park County Board of County Commissioners
on December 13, 2012, and Received Unanimous Approval**

Resolution Signed By PC BOCC on January 3, 2013

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9. Information, along with Other Evidence Presented at Hearing
10. Additional Information Required by Park County BOCC

II. Statutory Findings and Conclusions

1. There is sufficient existing and projected need for the organized services to be provided by the proposed District. 32-1-203(2)(a), C.R.S.
2. The existing service is inadequate for present and projected needs. 32-1-203(2)(b), C.R.S.
3. The proposed District is capable of providing economical and sufficient service. 32-1-203(2)(c), C.R.S.
4. The area to be included within the District boundaries has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis. 32-1-203(2)(d), C.R.S.
5. Adequate service is not, or will not, be available through the county, any existing special districts or municipalities within a reasonable time and on a comparable basis. 32-1-203(2.5)(a), C.R.S.
6. The facility and service standards will be compatible with the County standards. 32-1-203(2.5)(b), C.R.S.
7. The proposal is in substantial compliance with the county master plan. 32-1-203(2.5)(c), C.R.S.
8. The proposal is in compliance with any county, regional or state long-range water quality management plan for the area. 32-1-203(2.5)(d), C.R.S.
9. The creation of the proposed District is in the best interests of the area to be served. 32-1-203(2.5)(e), C.R.S.

III. Powers and Responsibilities

IV. List of Preparers

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1. 1972 Service Plan
2. 1975 Court Order Establishing the Indian Mountain Metropolitan Recreation and Park District
3. Community Survey Results
4. Indian Mountain Water Augmentation Plan
5. Resolutions from IMRPD and IMPOA Board of Directors
6. IMRPD District Bylaws
7. October 11, 2012 Division of Water Resources Letter

List of Acronyms Used in this Petition

- IM: Indian Mountain Subdivision in Park County
- IMRPD: Indian Mountain Recreation and Park District
- IMPOA: Indian Mountain Property Owner's Association
- BOCC: Park County Board of County Commissioners
- District: Indian Mountain Metropolitan District

Preface

The IMRPD Board of Directors is petitioning the Park County Board of County Commissioners (BOCC) to amend and restate the District's 1972 Service Plan.

On June 9, 2012, the IMRPD Board voted unanimously to initiate the petition process after consultation with the following:

- Park County Attorney,
- Colorado Department of Local Affairs,
- Colorado Special District Association,
- Headwater Authority of the South Platte,
- Colorado Division of Water Resources,
- Indian Mountain Property Owner's Association, and the
- District's legal counsel at Collins, Cockrel and Cole.

The rationale for this petition follows:

1. The 1972 Service Plan is today impractical, unrealistic, and misleading to the current and future property owners in the Indian Mountain subdivision. The 1972 plan called for a down-hill ski complex, 18-hole executive golf course, snowmobile and equestrian trails, and fishing ponds. The 1972 Service Plan does not reflect the current services, activities, and facilities provided by the District.
2. The 1972 Service Plan has no reference to the need for managing, protecting and conserving the District's 450 acres of parklands, forests, open space, grasslands, wetlands, ponds, waterways, and wildlife habitat.
3. The 1972 Service Plan does not accurately reflect the community's desires for the services, activities, and facilities to be provided by the District. Appendix 3 contains data from several recent community surveys.
4. The 1972 Service Plan is not consistent with and is disconnected from the court order that formed the IMRPD (11th Judicial District, Civil Action No. 4062, June 30, 1975) with regard to the water storage and transfer assets associated with the District. Furthermore, the Service Plan does not recognize that the District manages two ponds, two dams, wetlands, and a section of the Tarryall Creek on its property.

5. The Indian Mountain community does not now own or administer the court decreed water augmentation plan governing the 2,500 lots (i.e., wells) in the subdivision. The IM water augmentation plan is owned and administered by the original developer of the Indian Mountain subdivision, who is now doing business as Indian Mountain Corporation. In the event of non-compliance with the augmentation plan, the Division of Water Resources has informed the community that all consequences, including the shutdown of the residential wells in IM, would accrue to the community, not the current owner of the plan of augmentation.

Appendix 7 contains an October 11, 2012, letter from the District Engineer of the Colorado Division of Water Resources validating the situation facing the Indian Mountain community.

The social and economic harm to the 2,200 IM property owners of such consequences would be significant, as would the associated loss of tax revenue to Park County. Therefore, the District is seeking alternative ways to assure full compliance with the plan of augmentation including the option for the District to own and manage the IM water augmentation plan for the community. Appendix 4 contains the court decreed IM water augmentation plan.

6. The IMRPD shares in the governance of the Indian Mountain subdivision with the Indian Mountain Property Owner's Association (IMPOA). IMPOA is a Colorado non-profit, 501 C (4) corporation formed in 1985 by concerned property owners in the subdivision. IMPOA is uniquely and distinctly disadvantaged from other HOAs in Colorado, in that it is a voluntary organization of IM property owners with no authority for covenant compliance or to obligate property owners for any fees or charges.

The most significant concern to IMPOA's nearly 700 members is the control and the sufficiency of water augmentation resources to assure the availability of well permits for the 2,500 lots in the subdivision. IMPOA supports this petition to change IMRPD to a metropolitan district and to update the associated service plan to enable the community to own and administer the IM water augmentation plan. Appendix 5 contains the resolutions from the IMRPD and IMPOA Board of Directors.

I. Amended and Restated Service Plan

Section I is formatted to address the minimum requirements for the types of information that a service plan must contain. (C.R.S. 32-1-202(2)).

1. Name of the District

The name of the District is changed from Indian Mountain Recreation and Park District to Indian Mountain Metropolitan District.

2. Description of the Services

The vision for the District is to sustain the rural landscape and rural lifestyle of the Indian Mountain subdivision. The District shall manage, protect, and conserve its natural resources responsibly, while affording recreation opportunities for the community to experience and enjoy the natural quiet, solitude, peacefulness, serenity, beauty, and natural resources found in IM. Towards achieving this vision, the District provides the following services for the Indian Mountain community.

Park and Recreation Services. The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and otherwise manage and conserve some 450 acres of parklands, forests, open space, grasslands, wetlands, ponds, waterways, and wildlife habitat for the community, including the District's facilities. The District may implement programs and maintain equipment related to public safety, public access, wildfire mitigation, erosion control, insect and disease control, pond restoration and maintenance, wetland restoration and maintenance, stream bank management, community awareness and education, a regulated burn pit for forest slash, and other natural resource conservation activities.

The District does not envision large-scale built-environments and intensively manicured city park settings, athletic fields, swimming pools, tennis courts, golf courses, bowling alleys and other such highly developed facilities. Rather, the District is focused on sustaining opportunities to experience and enjoy the natural quiet, solitude, peacefulness, serenity, scenic landscapes, beauty, and natural resources found in the Indian Mountain subdivision.

The primary recreation service provided by the District is quality outdoor recreation opportunities for the community. More specifically, the District may provide nature-based, day-use, non-motorized outdoor recreation opportunities. Examples of appropriate outdoor recreation opportunities include, but are not limited to, hiking, walking, wildlife viewing, fishing, picnicking, photography, nature-study, snow-shoeing, cross-country skiing, sledding, sight-

seeing, and those other activities associated with enjoyment of the sights, sounds and smells of nature.

A secondary recreation service provided by the District in several locations includes modest facilities and programs for more active and intensive outdoor and indoor recreation opportunities. Examples include, but are not be limited to, playground apparatus, comfort station (e.g., potable water, toilets, showers, electricity, and phone), picnic pavilion, picnic tables, wildlife viewing stations, benches, small overnight cabin, interpretive signs, fishing stream, Frisbee golf, pasture golf, interpretive kiosks, community center, library, restrooms, parking, interpretive tours and programs, social events, classes and trainings, internet access, and internet-based information.

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, construct, acquire, 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.

Appendix 4 contains the Indian Mountain water augmentation plan. Appendix 7 contains an October 11, 2012, letter from the District Engineer of the Colorado Division of Water Resources describing the situation facing the Indian Mountain community.

3. The District's Financial Plan:

The District's primary source of revenue is a 6.943 mill levy which has been in place for over 10 years. There are no plans to change the current mill levy or otherwise take on additional debt. The 2012 approved operating budget is the most accurate reflection of the District's financial plan.

Indian Mountain Recreation & Park District

Oct 8, 2011

	Actual 2010 YEAR END	Adopted BUDGET 2011	Estimate 2011 Year End	Approved Budget 2012
BEGINNING BALANCE	322,380	505,137	505,137	92,516
 REVENUE				
Property Taxes (6.943 mills)	138,443	140,000	138,620	138,160
Interest on Property Tax	262	100	210	100
Specific Ownership Tax	12,886	8,000	9,400	9,000
Delinquent Taxes	80	0		
Key Income / RV Storage	531	300	535	300
IREA Refunds/Miscellaneous	0	0	150	100
Lottery Revenue	816	870	850	820
Interest Income	3,407	3,000	875	400
Lodge Rental (75x30)		0	300	2,250
CC Rental		0	120	500
IMPOA reimburse			2995	450
TOTAL REVENUES	\$ 156,425	\$ 152,270	\$ 154,055	\$ 152,080
 Lease-Purchase Loan	 \$ 400,000	 \$ 0	 \$ 0	 0
 EXPENSES				
Total Operating Capital	\$ 878,805	\$ 657,407	\$ 659,192	\$ 244,596
 Operating Expenses				
Appreciation Awards	1000	1000	1000	500
Board Compensation	5300	6000	5700	6000
Business Manager	921	6500	7000	15500
Office Manager		357	357	0
Newsletter	1036	1500	500	500
Supplies	996	3000	1000	1000
Officer Expense Reimbursement.	1230	1000	2300	1000
Postage & Delivery	230	300	120	100
Community Events	2904	4000	4500	4000
Computer & Internet Services		240	240	300
Bank Fee		75	75	75
Training	0	500	0	100
Uncategorized Expenses	708	500	560	500

Subtotal Office	\$ 14,325	\$ 24,972	\$ 23,352	\$ 29,575
Insurance				
Insurance/Bond/Work Comp	3,174	4,000	3,730	3,750
Maintenance				
Maintenance Tech	5171	7000	4000	4000
Janitorial	2805	5000	3600	4000
Outside Maintenance Services	4620	6000	3170	3000
Maintenance-Other	491		1200	2000
Maintenance Supplies	1927	3500	1788	1000
Subtotal Maintenance	\$ 15,014	\$ 21,500	\$ 13,758	\$ 14,000
Professional Fees				
Audit Exempt	1020	1200	3400	3400
SDA Dues	373	350	348	350
Bookkeeper	777	800	225	0
Park County Treasurer Fees	4191	4500	4500	4500
Election Costs	267	0	0	15000
Legal Fees	14876	12000	3150	1500
Professional Fees-Other	0	2000	123	150
Subtotal Professional Fees	\$ 21,504	\$ 20,850	\$ 11,746	\$ 24,900
Utilities				
Water/HASP	150	400	150	150
Trash	0	0	425	1,200
Electric	2,145	5,000	2,500	3,000
Propane	2,164	5,500	4,300	5,000
Septic	2,774	4,500	3,500	3,000
TV Service			300	750
Telephone/Internet	1,474	3,600	1,500	1,500
Subtotal Utilities	\$ 8,557	\$ 19,000	\$ 12,675	\$ 14,600
Total Operations Expense	\$ 62,574	\$ 90,322	\$ 65,261	\$ 86,825
CAPITAL PROJECTS				
Community Center Construction	1,500	140,000	283,535	0
Lease Purchase Construction	254,200	145,800	145,800	0
Water Well	6,803	0	0	0
Gold Pan Park			2,500	500
Nature Trail Improvements	0	0	0	0
Natural Resource Management		2,000	150	500
Pasture Golf / Archery/Burn Pit	2,366	0	0	1,000
Mt Park Improvements	815	0	2,000	500
Pond Park Improvement	0	19,000	10,000	5,000
Lodge	0	7,500	10,664	2,000
Recreation Hall	0	2,500	0	0

Picnic Pavilion	0	0	1,575	0
RV Storage	0	0	0	0
Signs / Maps	719	4,000	500	0
Total Capital Projects	\$266,403	\$ 320,800	\$ 456,724	\$ 9,500
Community Center				
Lease-Purchase (10yr payback) on \$400,000	44,691	44,691	44,691	44,691
Total OPS/Cap projects/lease	\$ 373,668	\$ 455,813	\$ 566,676	\$ 141,016
RESERVES				
Tabor Reserves 3%	\$ 11,210	\$ 13,674	\$ 17,000	\$ 4,230
Operating Reserves 15%	\$ 9,386	\$ 13,548	\$ 9,789	\$ 13,024
TOTAL RESERVES	\$ 20,596	\$ 27,223	\$ 26,789	\$ 17,254
ENDING BALANCE	\$ 505,137	\$ 201,594	\$ 92,516	\$ 103,580

4. Future facilities and Standards for Construction (A preliminary engineering or architectural survey showing how the proposed services are to be provided).

The District has essentially reached full build-out for its park, recreation and water facilities. There are no planned facilities, infrastructure, or development projects. The focus of the District is on upkeep, restoration and maintenance, and replacement when necessary. Table 1 is a list of the District's primary facilities along with their age, condition and maintenance schedule.

Table 1. Primary District Facilities

Facilities	Description	Est. Age	Condition (good, fair, poor)	Routine Maintenance	Major Maintenance
Comfort Station	Provides modern toilet and shower facilities, potable water, electricity, phone and information bulletin board	15	good	annual	15 years
Picnic pavilion	Picnic shelter for 10 picnic table and area for barbeque	10	good	annual	20 years
Playground	Small ¼ acre area with children's playground apparatus.	2	good	annual	10 years
Nature trails	Approximately 4 miles of foot trails with signage, benches and interpretation	20	good	annual	NA
Frisbee golf course	18-hole Frisbee golf course	4	good	annual	10 years
Storage shed	Small 10 x 10' storage shed for equipment and supplies	15	fair	annual	5 years
Indian Mountain lodge	Small overnight cabin for 6 people, kitchen, storage, heat, electricity, dining and living area, furnished, accessible, porch and railing.		fair	annual	5 years
RV Dump station	Septic tank for RV dumping, non-potable water, drive-through access and signage	15	fair	annual	5 years
Gold pan park	A fenced ½ acre of park area along Tarryall Creek for fishing, wading, and picnicking	1	excellent	annual	5 years
Community Center	3,500 square foot community center with modern toilet and kitchen facilities, District business office, large open meeting space, adjacent outdoor decks, electricity, Wi-Fi, library, television, tables and chairs, file cabinets, interpretive kiosk, signs, displays, and storage	2	excellent	annual	10 years
Seasonal ponds	Two earthen-dams retaining seasonal ponds	30	good	annual	50 years
Burn pit	Seven acres with pit for dumping forest slash and other approved materials managed in cooperation with Jefferson-Como Fire Protection District	30	good	annual	50 years
Pasture golf course	18-hole natural grass/pasture golf course with sand greens and pins	20	fair	annual	NA

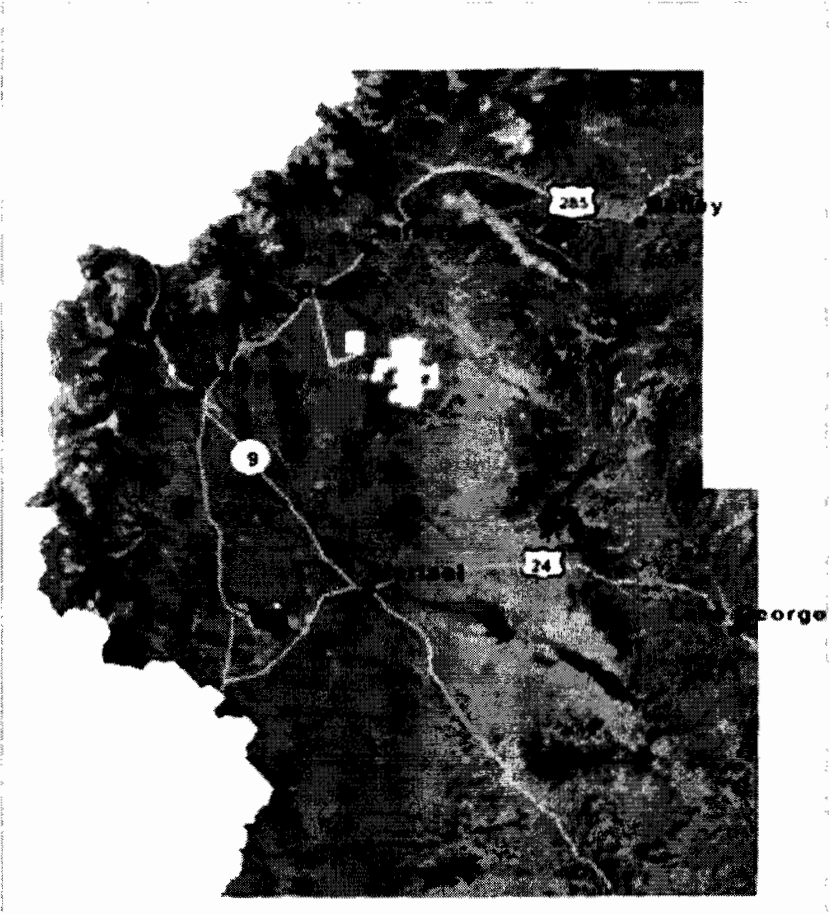
5. Map, Population and Assessed Value of District (A map of the special district boundaries and an estimate of the population and valuation for assessment of the proposed special district).

The District has no plans to acquire land or otherwise change the current boundaries. Within the District there are nearly 2,500 lots owned by nearly 2,200 property owners. It is estimated that 605 property owners have built a house or cabin, of which 150 households are year-around residents. Assuming 2.5 people per family (i.e., property owner), the District provides services to an estimated 5,500 people.

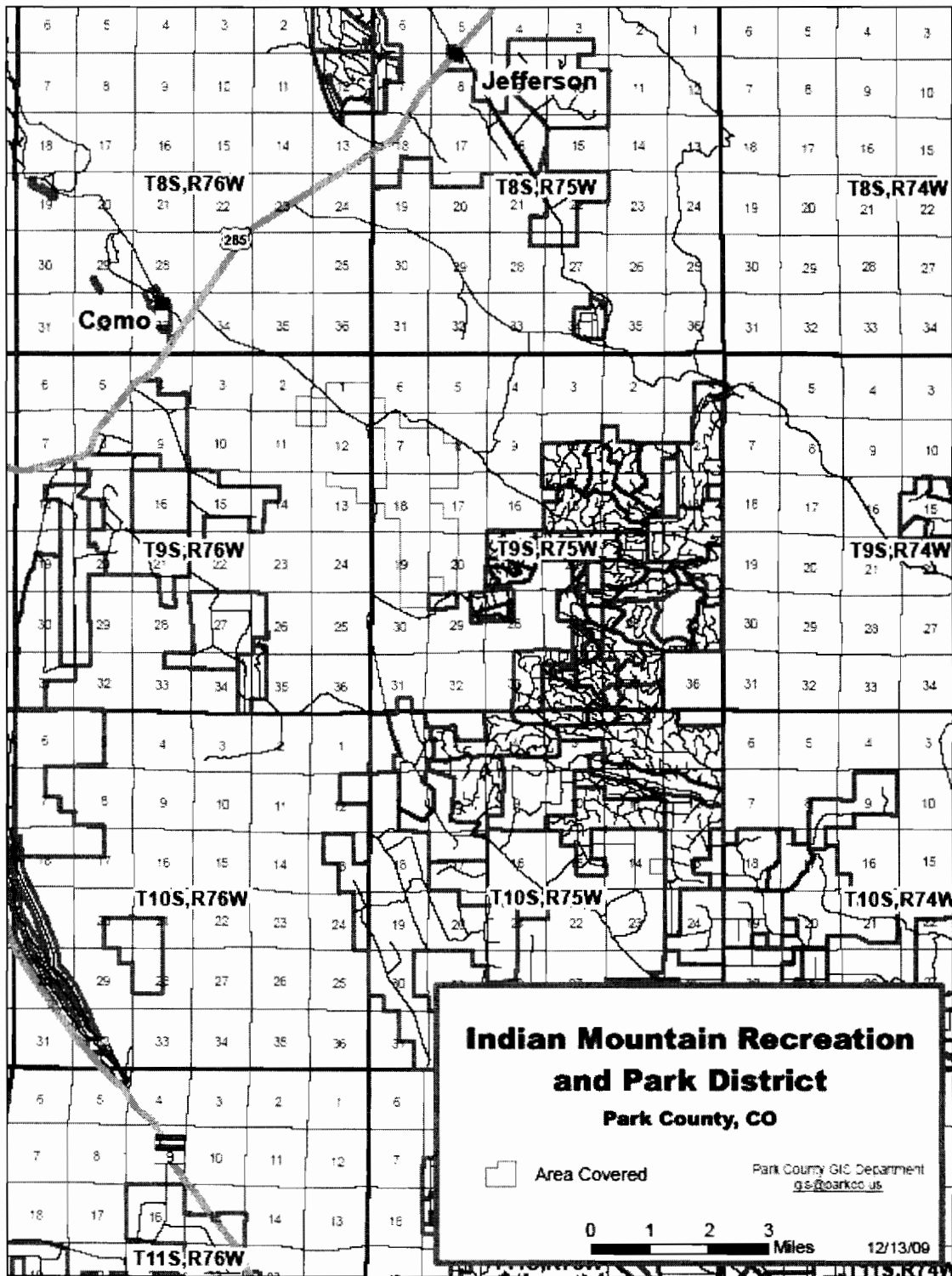
The December 31, 2011, Park County assessed valuation of the District for 2011 was \$20,100,150. The estimated December 31, 2012, Park County assessed valuation for the District is \$19,899,092.

There are three maps of the District: 1. a general vicinity map, 2. a land section map showing District boundaries, and 3. a locational map of the primary facilities. The legal description of the District can be found in the 1975 court decree establishing the District (Appendix 2).

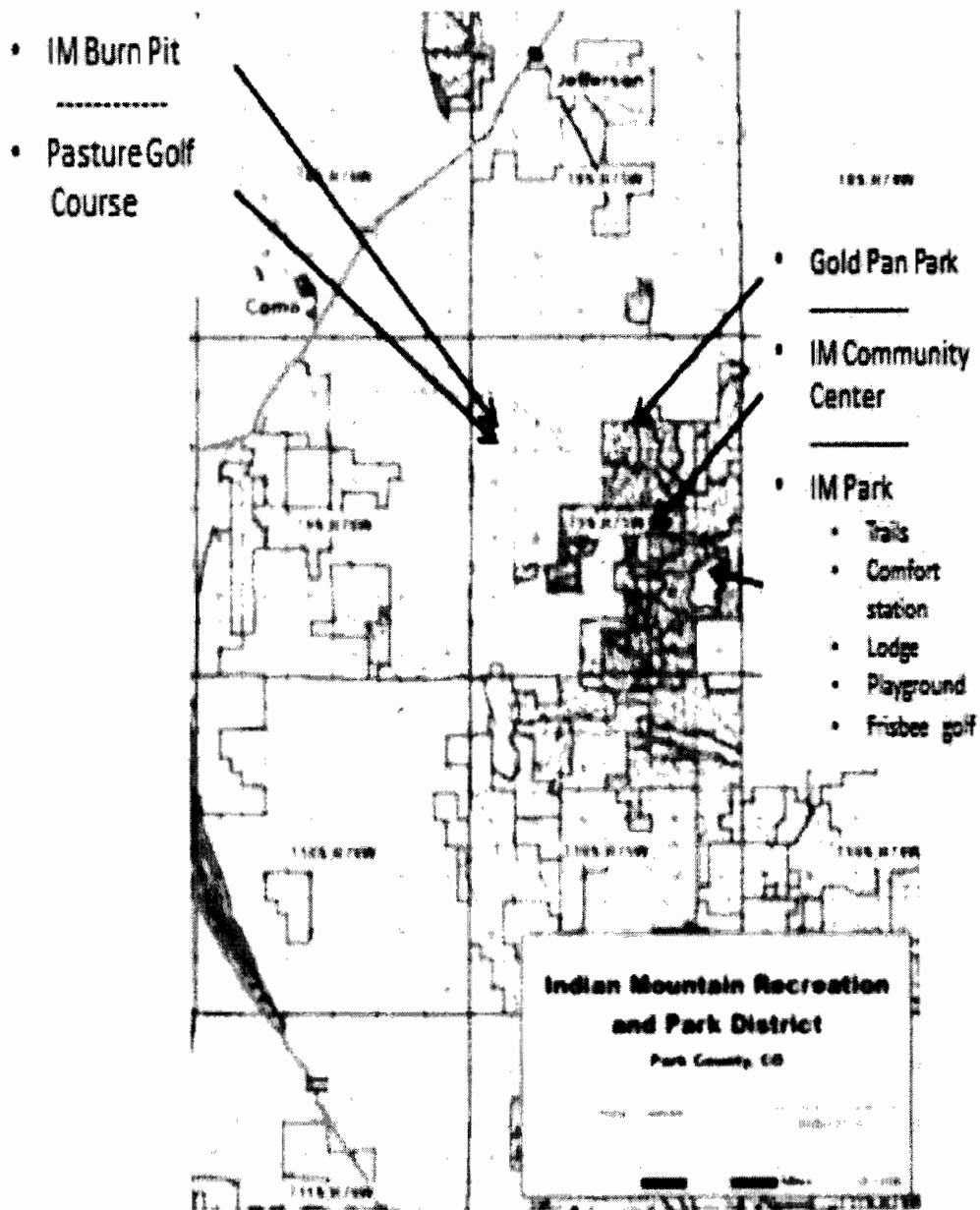
Map 1. General Vicinity Map



Map 2. Section Map of District Boundaries



Map 3. Locational Map with Primary District Facilities



6. Estimated Costs of Acquiring Land and Services Related to Initial Operation (A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to C.R.S. 32-1-204(1)).

The District has essentially reached full build-out for its park, recreation and water facilities. There are no planned facilities, infrastructure, or development projects. The focus of the District is on upkeep, restoration, maintenance, and replacement when necessary.

7. Estimated Costs of Acquiring Land and Services Related to Initial Operation (A general description of the estimated cost of acquiring land, engineering services, legal services, administrative service, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district).

All expenses for the initial organization and operation of the District have been settled.

8. A Description of Any Proposed Agreements (A description of any arrangement of proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision and, if the form contract to be used is available, it shall be attached to the service plan).

There are no current agreements for the performance of the services. In the future, there may be an agreement to secure and administer the Indian Mountain Water Augmentation Plan which is included in Appendix 4.

9. Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in C.R.S. 32-1-203, if applicable, is met.

See Section II.

10. Such additional information as the board of county commissioners may require by resolution on which to base its findings, pursuant to C.R.S. 32-1-203.

Pending BOCC review.

II. Statutory Findings and Conclusions

1. There is sufficient existing and projected need for the organized services to be provided by the proposed District. 32-1-203(2) (a), C.R.S.

The District has been meeting the needs of the community for 40 years. The District's services are very popular, heavily utilized, and appreciated by the IM property owners. The quality of life in the community and property values have benefited from the District's services.

Furthermore, of the nearly 2200 individual property owners, only about 600 have built cabins/homes to date. As the community continues to build out, public demand for the services will grow.

2. The existing service is inadequate for present and projected needs. 32-1-203(2) (b), C.R.S.

The amended and restated service plan does not add, delete or otherwise change the current services being provided to the community, but rather updates and accurately reflects the current services versus what the original 1972 service plan states. Without the District, the present and projected needs would not be met.

The existing services are adequate for the present and projected needs. The only exception is there may be a need and opportunity for the District to secure and administer the Indian Mountain Water Augmentation Plan on behalf of the community.

3. The proposed District is capable of providing economical and sufficient service. 32-1-203(2) (c), C.R.S.

The District has been operating for 40 years. The District is in good standing with the County, State and its property owners. Its financial records, services, facilities and resources are in good order. The current mill levy is adequate and there are no plans for change.

4. The area to be included within the District boundaries has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis. 32-1-203(2)(d), C.R.S.

Yes, the three year budget presented in the previous section indicates the financial ability to discharge the District's indebtedness, services, and responsibilities, including maintaining fiscal reserves.

5. Adequate service is not, or will not, be available through the county, any existing special districts or municipalities within a reasonable time and on a comparable basis. 32-1-203(2.5)(a), C.R.S.

Indian Mountain is a rural community located 15 miles from Fairplay, Colorado. In contrast to the South Park Recreation and Park District, the Indian Mountain District's park and recreation services are located within the Indian Mountain community and focused on outdoor or nature-based recreation, natural resource settings (forests, grasslands, wetlands, streams), and water resource management. The services provided by the District are distinct and different from any other Park County district or municipality, and such service is not expected to ever be provided for the IM community by another entity.

6. The facility and service standards will be compatible with the County standards. 32-1-203(2.5)(b), C.R.S.

The Board of the District will ensure that all facility and service standards are compatible with Park County standards. This has been the case for the past 40 years and will continue.

7. The proposal is in substantial compliance with the county master plan. 32-1-203(2.5)(c), C.R.S.

Yes, the amended and restated service plan is in full compliance with the county master plan.

8. The proposal is in compliance with any county, regional or state long-range water quality management plan for the area. 32-1-203(2.5)(d), C.R.S.

Yes, the proposal is in compliance with county, regional and state long-range water quality management plans for the area.

9. The creation of the proposed District is in the best interests of the area to be served. 32-1-203(2.5)(e), C.R.S.

Yes, as evidenced by the resolutions in Appendix 5, both the Board of the Indian Mountain Recreation and Park District and the Board of the Indian Mountain Property Owners Association voted unanimously in support of this amendment and restatement.

Furthermore, a community meeting was held in Indian Mountain on September 2, 2012. Over 100 community members were in attendance. There was no opposition to the change expressed at the meeting. Furthermore, only comments in support of the effort were received after the meeting when minutes were emailed to more than 500 IMPOA members and posted on the IMPOA and IMRPD websites.

III. Powers and Responsibilities

The District shall have the power and authority, but is not required, to provide the public improvements and related services within and without the boundaries of the District as such power and authority is permitted by this Amended and Restated Service Plan and described in the Special District Act, C.R.S. Title 32, and other applicable statutes, common law, and the Colorado Constitution, subject to the limitations set forth herein.

1. General Powers

The District shall have the authority to construct, operate, and maintain the services, resources, and facilities as described in Section I.

2. Miscellaneous and Other Statutory Powers

In addition to the powers enumerated above, the Board shall have the power and authority:

- A. To amend this Amended and Restated Service Plan pursuant to § 32-1-207, C.R.S.
- B. Without amending this Amended and Restated Service Plan, the District may defer, forego, reschedule or restructure the financing and construction of the necessary improvements and facilities to better accommodate the pace of growth, resources availability, changes in service area and potential inclusions of property within the District;
- C. To have and exercise all rights and powers necessary or incidental to, or implied from, the specific powers granted to the District in this Amended and Restated Service Plan;
- D. Subject to the requirements of § 32-1-1101(1)(f)(I), C.R.S. and the County's authority to declare such action a material modification of this Amended and Restated Service Plan, the District may create one or more subdistricts at the District's discretion as necessary to appropriately provide authorized services, and to impose the differential fees therefor, in specific areas of the District as determined by the costs to provide such services for such areas. The creation of one or more such subdistricts shall follow the requirements of, and the District shall provide notice of the creation of such subdistrict(s) to the County pursuant to, § 32-1-1101(1)(f)(I), C.R.S.; and
- E. To exercise all other powers that are expressly or impliedly granted to it by Colorado law, if not otherwise limited by the Amended and Restated Service Plan or its conditions of approval.

IV. List of Preparers

Indian Mountain Recreation and Park District

Dr. Glenn E. Haas, Secretary (lead-author)
305 Travois Court
PO Box 105
Como, CO 80432
glennehaas@comcast.net
970-498-9380

Ms. Susan Stoval, President
7257 W. 75th Avenue
Arvada, Co 80003
719-836-0138

Indian Mountain Property Owner's Association

Dr. Roger Mattson, President
2511 Fossil Trace Court
Golden, CO 80401
303-204-3566

Appendices

1. 1972 Service Plan
2. 1975 Court Order Establishing the Indian Mountain Metropolitan Recreation and Park District
3. Community Survey Results
4. Indian Mountain Water Augmentation Plan
5. Resolutions from IMRPD and IMPOA Board of Directors
6. IMRPD District Bylaws
7. October 11, 2012 Division of Water Resources Letter

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No fee

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Debra A Green
Park County Clerk

**PARK COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

Resolution No. ~~2012-01~~

2013 ~~PEB~~

**RESOLUTION REGARDING APPROVAL OF
A SERVICE PLAN AMENDMENT FOR
THE INDIAN MOUNTAIN METROPOLITAN DISTRICT
(f/n/a the Indian Mountain Recreation and Park District)**

WHEREAS, the Board of County Commissioners of the County of Park, State of Colorado (the "Board"), is vested with administering the affairs of Park County, Colorado, pursuant to state statutes; and

WHEREAS, on May 1, 1972, the Board approved the Service Plan for the Indian Mountain Metropolitan Recreation and Park District (the "District") by resolution, pursuant to Article 18, Chapter 89 of the Colorado Revised Statutes 1963, as amended; and

WHEREAS, on November 13, 2012, the Board of Directors of the District filed an Amended and Restated Service Plan for the District with the Park County Clerk and Recorder, pursuant to Section 32-1-101 *et seq.*, C.R.S.; and

WHEREAS, the proposed Amended and Restated Service Plan authorizes the District to exercise water and park and recreation powers granted to a metropolitan district pursuant to Section 32-1-103(10) C.R.S., and proposes changing the name of the District to Indian Mountain Metropolitan District to reflect this additional authorization and to accurately reflect the services and facilities currently provided by the District; and

WHEREAS, pursuant to the provisions of Subsections 32-1-202(1) and 32-1-204(1), C.R.S., the Board scheduled a public hearing on the Amended and Restated Service Plan to be held at 8:30 a.m. on December 13, 2012; and

WHEREAS, upon verification of proper notice as required by Section 32-1-204, C.R.S., as noted in the certifications provided by the District and contained in the record, the Board convened a public hearing to consider the Amended and Restated Service Plan, at which time all interested parties, as defined by Section 32-1-204, C.R.S., were afforded an opportunity to be heard and testimony and evidence was received and considered; and

WHEREAS, the Board has fully considered the Amended and Restated Service Plan and all testimony and other evidence presented to it in this matter relating to the Amended and Restated Service Plan; and

WHEREAS, the Board hereby finds, determines and declares that adoption of this Resolution is necessary for the preservation and protection of the public health, safety and welfare of the inhabitants of Park County, Colorado;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PARK, STATE OF COLORADO:

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Section 1. The Board finds that satisfactory evidence of each of the following has been presented, pursuant to the requirements of Section 32-1-203(2), C.R.S.:

- A. Need. There is sufficient existing and projected need for organized service in the area served by the District.
- B. Existing Service Inadequate. The existing service in the area served by the District is inadequate for present and projected needs.
- C. District Capable. The District is capable of providing economical and sufficient service to the area within its boundaries.
- D. Area has Financial Capability. The area included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Section 2. Further, the Board finds that satisfactory evidence of each of the following has been presented, pursuant to the requirements of Section 32-1-203(2.5), C.R.S.:

- A. Adequate Service Not Timely Available. Adequate service is not, or will not be, available to the area through the County or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
- B. Facility and Service Standards Comparable. The facility and service standards of the District are compatible with the facility and service standards of each county within which the District is located and each municipality which is an interested party, if any.
- C. Substantial Compliance with Master Plan. The proposal is in substantial compliance with the Park County master plan.
- D. Substantial Compliance with Water Quality Plan. To the extent that it applies, the proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area.
- E. In Best Interests of Area. The amendment to the Service Plan of the District is in the best interests of the area to be served.

Section 3. The Amended and Restated Service Plan of the District shall be and is hereby approved.

Section 4. The name of the District is changed to Indian Mountain Metropolitan District.

Section 5. The Clerk to the Board is hereby directed to advise the District in writing of this action and to attach a certified copy of this Resolution for the purpose of filing the same with the District Court of Park County.

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Debra A Green
Park County Clerk

Section 6. All Resolutions, or parts thereof, in conflict with the provisions hereof, are hereby repealed to the extent of such conflict only.

Section 7. This Resolution, immediately upon its passage, shall be authenticated by the signatures of the Board of County Commissioners and the County Clerk and Recorder and sealed with the corporate seal of the County.

Section 8. This Resolution is necessary for the public health, safety and welfare of the citizenry of the County of Park, State of Colorado.

MOVED, SECONDED AND PASSED AS OF THE 3rd DAY OF JANUARY, 2013.

**PARK COUNTY BOARD OF
COMMISSIONERS**

By: _____

Richard F. Hodges
Richard F. Hodges, Chairman

ATTEST:

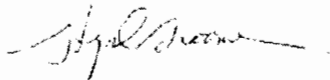
Debra A Green
County Clerk



DISTRICT COURT, PARK COUNTY, COLORADO Court Address: P.O. Box 190, 300 Fourth Street, Fairplay, CO. 80440	DATE FILED: February 26, 2013
	△ COURT USE ONLY △ Case Number: 1975CV4062 Division: B Courtroom:
Order: Order to Change Name of District	

The motion/proposed order attached hereto: GRANTED.

Issue Date: 2/26/2013



STEPHEN A GROOME
District Court Judge