

MEMORANDUM

Board of Directors
TrailMark Metropolitan District

Fairview Water Rights Summary – March 2011

The TrailMark Metropolitan District (District) owns an interest in the Fairview Ditch and Reservoirs and the water rights associated with them. The Fairview Reservoir No. 1 is located near the entrance to the Trailmark community. It covers approximately 15 acres and holds about 28 million gallons of water (85 acre feet). The Fairview Reservoir No. 2 is located to the south and west and is much smaller, covering a little less than 2 acres and holding approximately 2 million gallons of water (7 acre feet).

Water that is stored in the Fairview Reservoirs is diverted from Deer Creek through a concrete diversion structure. That water is conveyed across Jefferson County Open Space land (formerly the Hildebrand Property) in an unlined earthen ditch to the property boundary of the TrailMark community, from which point it is transported by gravity through an underground pipeline to Fairview Reservoir No. 1 or may be delivered through a short branch pipeline to Fairview Reservoir No. 2.

The District owns 23.6% of the water rights decreed for the Fairview Ditch and Reservoirs and the Centennial Water and Sanitation District, which supplies water to Highlands Ranch, owns 76.4% of these rights. These water rights were originally decreed for irrigation purposes, but by decree entered by the Division 1 Water Court in Case No. 84CW058, they were changed to municipal and all other beneficial uses and quantified to allow a twenty-year running average of 180 acre feet of water per year to be consumed with a maximum consumable yield in any one year of 243 acre feet. The operation of the Fairview water rights is complicated, requiring releases of water back to Deer Creek to replicate historical surface and ground water return flows that occurred when the water rights were used for irrigation. Adding to the management complexity associated with the Fairview rights is the fact that a portion of the water diverted through the Fairview Ditch is taken to irrigate the Hildebrand Property, now owned by Jefferson County. In addition, in 1997, the then-owner of the land comprising the Trailmark Subdivision conveyed 20 acre feet of consumptive use water under the Fairview rights to the Denver Botanic Gardens, to which the District's and Centennial's interests are subject.

The District utilizes its share of the Fairview water rights primarily for aesthetic and wildlife purposes principally through retaining as much water as possible in the Fairview Reservoirs. In addition, 5.5 acre feet of water per year is released to offset depletions associated with the development of mitigation wetland areas required for the original construction of the Trailmark Subdivision. The obligation to release water from the Fairview Reservoir No. 1 to satisfy ground water return flow obligations, and the number of users of Fairview water, create challenges to retain water in the Fairview Reservoir throughout the year. The District has spent considerable time and money exploring cooperative ways to fill the Reservoir each year and retain as much water as possible in storage.

The District has a current dispute with Denver Botanic Gardens over the amount of Fairview water that the Gardens is claiming under a water rights application pending in water court. In that application, the

Gardens claims that it had the right to 30 acre feet of consumable water from the Fairview system, comprised of 20 acre feet of direct flow rights and 10 acre feet of storage. The District's position is that the Gardens has only the right to a total of 20 acre feet of consumable water and Trailmark has therefore filed an objection to the Gardens' water rights application. Centennial also has opposed the Gardens, addressing a broader range of issues but including the claimed ownership of the extra 10 acre feet of Fairview water. The District intends to maintain its opposition in order to protect the TrailMark community's interest in the Fairview system.

Sincerely,

Wayne F. Forman

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