

**PROPOSED
PLAN OF WATER MANAGEMENT
Special Improvement District No. 1 of the Rio Grande Water Conservation
District**

The Board of Directors of Rio Grande Water Conservation District (“the District”) on behalf of the Board of Managers of Special Improvement District No. 1 (“the Subdistrict”), submits the following Proposed Plan of Water Management as the official plan of the Subdistrict, subject to Court approval, pursuant to C.R.S. § 37-48-126.

I. DEFINITIONS

- A. “Subdistrict Acreage” – shall mean the same as “Subdistrict Territory.”

- B. “Subdistrict Territory” - Pursuant to C.R.S. § 37-48-123(d), the Subdistrict territory includes all lands within the exterior boundaries of the Subdistrict that were classified as irrigated by the applicable county Treasurers and Assessors as of May 12, 2006.

- C. “Subdistrict Wells” - wells and irrigation systems used by each Subdistrict landowner or any other wells included under this Plan by contract as described in Section II.C. Wells included in the Plan and qualified to receive the benefits afforded by the Plan are those wells subject to the Well Measurement Rules adopted by the State Engineer and approved by the Division 3 Water Court in Case No. 05CW12 (August 1, 2006) (“Measurement Rules”). Wells exempt from the Well Measurement Rules include wells not exceeding fifty (50) gallons per minute which were in production as of May 22, 1971 that were and are used for ordinary household purposes for not more than three single-family dwellings, fire protection, the watering of poultry, domestic animals, and livestock on farms and

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ranches and for the irrigation of not over one acre of gardens and lawns. *See* § 37-92-602(1)(e).

- D. “Non-Benefited Subdistrict Land” - land that is irrigated only with surface water without an irrigation well in the parcel and/or without the physical ability to receive delivery of water pumped from a well on another parcel. In addition, it shall include land irrigated with groundwater pursuant to, and in compliance with, the provisions of a validly decreed plan for augmentation. Non-benefited lands will not be assessed by the Subdistrict or subject to service and user fees.

- E. “Farm Owner” – the individual holding title to tract of land as reflected in the records of the County Treasurer.

- F. “Farm Operator” – an individual or entity actually managing and farming land owned by more than one farm owner.

- G. “Farm Unit” – all irrigated lands under the control and management of a farm operator.

- H. “Annual Service and User Fee” – total yearly fee assessed upon subdistrict acres consisting of the sum of the Administrative Fee, the CREP Fee, and the Variable Fee.

- I. “Variable Fee” – annual measurement of the Net Groundwater Pumped multiplied by the Water Value.

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- J. “Water Value” – charge per acre foot of Net Groundwater Pumped not to exceed seventy-five dollars (\$75) per year. May be adjusted annually by the Board of Managers.
- K. “Net Groundwater Pumped” –total groundwater pumped less the applicable Surface Water Credit. Could result in either a positive or negative value.
- L. “Surface Water Credit” – surface water brought into the Subdistrict that is not consumed through irrigation practices or other beneficial uses and returns to or is introduced into the unconfined aquifer. Such Surface Water Credit is used by the Subdistrict for purposes of computing the Variable Fee and has no relationship to Recharge Decrees adjudicated by the Division 3 Water Court. Because the Surface Water Credit is given only for water brought into the Subdistrict, it necessarily excludes water from structures within the Subdistrict such as drains or seepage ditches that recapture or divert surface water within the Subdistrict.
- M. “Hydraulic Divide” - a hydrologic separation between the Unconfined Aquifer underlying Subdistrict lands and the Unconfined Aquifer tributary to the Rio Grande, and defined by the line labeled “Drainage Divide” that appears on Plate 1 of Colorado Water Resources Circular 18, Water in the San Luis Valley, South-Central Colorado (attached as Exhibit 1). Verification of the Hydraulic Divide, in terms of its existence, location, and extent shall be based upon written acceptance by the State Engineer.

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- N. “Measurement Rules” – means the well measurement rules adopted by the State Engineer and approved by the Water Court, Division 3, Case No. 2005CW12 (August 1, 2006).
- O. “Unconfined Aquifer” means the aquifer composed of sand, gravel, clay and other materials, and not under artesian pressure, located within the Subdistrict.
- P. “Unconfined Storage Level” – five-year running average of the average annual storage level in Unconfined Aquifer calculated on a monthly basis.
- Q. “Unconfined Aquifer Storage” – as calculated for Rio Grande Water Conservation District by Davis Engineering Service, Inc. and titled “Change in Unconfined Aquifer Storage, West Central San Luis Valley”.
- R. “CREP” – Conservation Reserve Enhancement Program as defined and administered by the United States Department of Agriculture – Farm Service Agency (USDA-FSA) through the authority of the 2002 Farm Bill (Conservation Title). In general, the CREP allows the USDA, in cooperation with a local sponsoring entity, to offer an annual rental payment for a term of fifteen years to producers willing to fallow a parcel(s) of land and forego the use of the associated water right or well during that time. The Program aims to foster land and water conservation through this process.
- S. “Special Water” – as described or defined in the decrees for the Rio Grande Canal.

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- T. “Sustainable Aquifer” generally refers to a condition where withdrawals from the aquifer match recharge to the aquifer so that mining of the aquifer is not occurring.
- U. “Confined Aquifer” – means groundwater confined under pressure between relatively impermeable or significantly less permeable material as defined in *Ground-Water Hydraulics*, S.W. Lohman, Geological Survey Professional Paper 708, Dept. of Interior, 1972.

II. BACKGROUND AND BASIS FOR THE PLAN OF WATER MANAGEMENT

A. Current Situation

Members of the Subdistrict are landowners within the Rio Grande Water Conservation District who rely on wells for all or part of their irrigation water supply for lands north of the Rio Grande within part of the area known as the Closed Basin.¹ Current water levels in the Unconfined Aquifer within the Subdistrict have declined significantly. The consumption of groundwater from the Unconfined Aquifer within the Subdistrict has increased over time, and under current conditions significantly exceeds the total amount of recharge from natural sources and from diversions from the Rio Grande that is necessary to maintain a sustainable water supply in the Unconfined Aquifer. This overdevelopment has adversely affected Subdistrict lands, resulting in declining water tables, loss of well productivity, and other problems for irrigated agriculture. Unless the total consumption of groundwater in the Subdistrict is reduced, these problems will continue and worsen.

¹ The legal description of the Subdistrict is contained within the Court’s Order establishing the Subdistrict, in Case No. 06CV64 dated July 19, 2006.

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The current situation of the Unconfined Aquifer is the direct result of both (1) increased groundwater consumption by Subdistrict members or their predecessors during the last two decades, and (2) reduced water supply caused by sustained drought. Groundwater consumption has increased, due in part to some or all of the following irrigation practices:

1. Changing cropping patterns from less water-consumptive to more water-consumptive crops;
2. Changing type and frequency of irrigation;
3. Increasing the number of acres under irrigation; and
4. Connecting sprinklers to wells that were formerly used sporadically as a supplemental supply for flood irrigation and thereafter relying on the wells as a primary irrigation source.

The reduced native water supply is the result of the onset of a serious and prolonged drought that has greatly reduced inflows and surface water diversions into the Subdistrict lands. In order to restore balance between available supplies and current levels of use it will be necessary to permanently reduce the number of acres irrigated in the Subdistrict by approximately 40,000. The amount of the reduction in acreage will be periodically reviewed by the Board of Managers.

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B. Subdistrict Territory

Pursuant to C.R.S. § 37-48-123(d), the Subdistrict territory includes all lands within the exterior boundaries of the Subdistrict that were classified as irrigated by the applicable county Treasurers and Assessors as of May 12, 2006.

Initial inclusion within the Subdistrict was determined by providing a description of the Subdistrict territory in the Petition, as required by C.R.S. § 37-48-123(d), and requesting that the County Treasurer and/or Assessor of each county in which territory proposed to be included provide a list of the names of all landowners of property within the territory that is classified as irrigated. To the extent that land classifications change within the Subdistrict, the County Treasurer and/or Assessor will be requested to add or delete land, as appropriate.

C. Contract Authority

To the extent permitted by law, and in accordance with rules to be adopted by the Subdistrict, the Subdistrict may, at the discretion of the Board of Managers, contract with other well owners either within the Subdistrict exterior boundaries or outside the Subdistrict exterior boundaries to advance the Plan Goals and Overall Objective. In adopting a rule for this purpose, the Subdistrict Board of Managers may only contract with well owners whose wells impacts can be determined using the Subdistrict response functions pursuant to the procedures set forth in Appendix 1.

D. Plan Goals and Overall Objective

The goals of the Subdistrict are to cause groundwater levels in the Unconfined Aquifer of the Closed Basin to recover, and then to maintain a sustainable irrigation water supply in the

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Unconfined Aquifer with due regard for the daily, seasonal and longer term demands on the aquifer and to protect senior surface water rights and avoid interference with Colorado's obligations under the Rio Grande Compact. To achieve these goals, reducing and managing overall groundwater consumption is essential.

Subdistrict water users diverting groundwater from the Unconfined Aquifer for irrigation purposes operate pursuant to well permits and decrees recognized under Colorado law. If the Subdistrict is unable to achieve its goals, then groundwater users face the likelihood that the State of Colorado will impose limitations on the use of their wells through administrative rules and regulations. Accordingly, **the overall objective of this Plan is to provide a water management alternative to state-imposed regulations that limits the use of irrigation wells within the Subdistrict, that is, a system of self-regulation using economic-based incentives that promote responsible irrigation water use and management and insure the protection of senior surface water rights. The operation of this Plan will comply with the applicable requirements of SB 04-222, codified at C.R.S. § 37-92-501(4).**

E. Effect of Subdistrict and Plan

Neither the creation of the Subdistrict nor this Plan will alter or affect any vested surface or groundwater rights including aquifer recharge credits associated with water rights in any Ditch or Reservoir Company or Irrigation District. Nor shall the creation of the Subdistrict nor this Plan expand any existing beneficial use or allow a water right to be used for a beneficial use not contained in a valid Decree or Permit.

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Neither the creation of the Subdistrict nor this Plan will alter or affect the ability of individual producers to exchange, trade, lease, or sell Surface Water Credits from surface water diversions to the extent permitted by the articles of incorporation and bylaws of the participating ditch companies and Colorado law, provided that the exchange, trade, lease, or sale proposed does not expand the amount of irrigation occurring within the Subdistrict. For purposes of this Plan all water diverted from the Rio Grande and conveyed into the Subdistrict will be treated the same for accounting purposes whether it is diverted pursuant to direct flow, storage, or decrees for diversion of surface water to be used for groundwater recharge. All decreed water rights diverted from La Garita and Carnero Creeks into the lands of the Subdistrict for initial beneficial use, together with Rio Grande Canal “Special Water,” will also be treated the same as all other diversions by the Rio Grande Canal, provided that proper devices exist to capture and measure the portion of such water rights diverted to and utilized within the Subdistrict. “Special Water” diverted from the Rio Grande and measured as a diversion by the persons using the “Special Water” will be subtracted from diversion into the Subdistrict attributable to the Rio Grande Canal.²

Water rights purchased or retired by the Subdistrict will only be used to protect and enhance the irrigation water supply for remaining irrigation groundwater users within the Subdistrict. Purchased and/or retired water rights will not be resold or used for purposes inconsistent with this Plan.

² Any surface water rights diverted into the Subdistrict that are not specifically mentioned will be recognized for credit by the Board of Managers on a case by case basis utilizing these same standards.

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If a farm owner or operator elects to temporarily reduce the amount of land under irrigation in a farm unit in order to achieve the goals of this Plan, such reduced irrigation will not be considered to be a period of non-use for purposes of abandonment or reductions in the operator's legal water right.

Only lands irrigated by groundwater and the pumping and use of groundwater on Subdistrict lands will be subject to assessment.

F. Effective Date of Plan

The Subdistrict will replace injurious depletions that result from Subdistrict Well pumping that occurs on or after January 1 of the year following final judicial approval of this Plan.

III. DESCRIPTION OF PLAN OF WATER MANAGEMENT

A. General Plan Description

Upon approval of the Plan of Water Management, the Board of Managers shall initiate a Program to insure that persons making the consumptive use of groundwater are required to contribute financially to insure that continuing consumption of groundwater matches the level of average recharge from all sources. The Program shall be implemented in the first year of Subdistrict operation and every year thereafter. The goal will be to generate sufficient revenues to fund the operations of the Subdistrict and to permit the retirement of sufficient acres within the Subdistrict to achieve a sustainable water supply in the Unconfined Aquifer with due regard for the daily, seasonal and longer term demands on the aquifer and to protect senior surface water rights and avoid interference with Colorado's obligations under the Rio Grande Compact.

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Revenue will be generated in part by the imposition of a Variable Fee. The Variable Fee will consist of a fee based on the differential between the amount of water pumped, measured by using a water flow meter or such other method approved by the State Engineer pursuant to the State Measurement Rules for Division 3, and the amount of surface water credit allocated to the parcel from surface water brought into the Subdistrict from the Rio Grande by one of the ditch systems. The differential will be multiplied by a Water Value, assigned by the Board of Managers not to exceed \$75 per acre foot that will generate sufficient funds to retire existing sources of groundwater consumption necessary to cause the groundwater system to recover to a historically sustainable level. Ultimately, landowners using lower quantities of groundwater and who contribute the most surface water to the Subdistrict will pay the lowest fee, and landowners who pump large quantities of water but who do not have offsetting Surface Water Credits, as calculated by the Subdistrict Board of Managers, from surface water from the Rio Grande or other stream systems will pay the highest fee.

B. Acts and Improvements

The Subdistrict intends to implement some or all of the following non-exclusive list of acts or improvements:

1. A program of temporary fallowing, potentially in cooperation with federal programs, to remove sufficient acreage from production, on an ongoing basis, to achieve reduction in water consumption necessary to achieve the goals of the Plan.

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2. Economic incentives for the permanent removal of lands from irrigation, potentially in cooperation with federal programs.
3. Replacement of stream depletions and/or increases in groundwater recharge.
4. Infrastructure improvements to maximize the diversion and recharge of water available to Colorado under its compact allocation.
5. Purchase and retirement of irrigated lands and/or water rights, either within or without the exterior boundaries of the Subdistrict.
6. Education and research into water conservation, water use efficiency, improved water management, and public education on agricultural water use.
7. Improvement and operation of ditches, headgates, and recharge facilities to make the best use of available water and to improve groundwater recharge.

The Subdistrict intends to use a combination of these improvements concurrently, or as they become economically viable and physically possible, to achieve the goals of the Plan of Water Management. The Plan will operate for an indefinite period to insure that a sufficient reduction in consumption continues to occur such that the total consumption within the Subdistrict matches the total inflows from natural sources and from importations by canals. At such time as the groundwater supply in the Unconfined Aquifer within the Subdistrict is

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sustainable, with due regard to the daily, seasonal and long-term demands on the groundwater supply, and the operation of the Unconfined Aquifer wells in the Subdistrict is not causing injurious stream depletions or unreasonably interfering with the state's ability to fulfill its obligations under the Rio Grande Compact, and all other purposes for which the Subdistrict has been organized are permanently accomplished and all obligations of the Subdistrict have been satisfied, the Subdistrict can be dissolved.

C. Protection of Senior Surface Water Rights

In order to insure the protection of senior surface water rights and avoid interference with Colorado's obligations under the Rio Grande Compact, the Subdistrict will utilize a portion of its revenues to attempt to restore and maintain a Hydraulic Divide between the Unconfined Aquifer underlying Subdistrict lands and the Unconfined Aquifer tributary to the Rio Grande and to replace any depletions calculated to occur to the Rio Grande and its tributaries resulting from the operation of Subdistrict Wells.

In the absence of rules and regulations controlling the methodology for calculating injurious depletions that this or other subdistricts must replace, calculations of injurious depletions to surface water sources will be made using the RGDSS groundwater model unless and until it is supplanted in the future by a superior technology. The Subdistrict will replace injurious depletions regardless of the state of the Hydraulic Divide.

The implementation of many of the strategies set forth in the Plan are consistent with preventing material injury to senior surface water rights. The following activities may be undertaken in an effort to achieve this objective:

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1. Establish and maintain a network of observation wells as necessary to characterize the existence, location and extent of the Hydraulic Divide.
2. In participation with Subdistrict programs to reduce overall consumptive use of groundwater within the Subdistrict, develop a program to target a reduction in groundwater depletion in the Subdistrict's southwest corner to encourage maintenance of a Hydraulic Divide.
3. With the voluntary participation with the Rio Grande Canal Water Users Association and the other canal companies, develop a plan to run water in the Rio Grande Canal, Lateral No. 1, or other appropriate canals, to maintain a groundwater mound to prevent groundwater flow from the alluvium of the Rio Grande to the north and east. Provide for the cost of such a program.
4. Develop new infrastructure, including recharge facilities along the Rio Grande Canal, Lateral No. 1, and at such other locations suggested by the monitoring well network, to assist in the maintenance of the Hydraulic Divide. Provide for the cost to develop and maintain any such recharge facilities.
5. Develop a program of water management, including the lease or purchase of sufficient surface water rights to permit the recharge program along the Hydraulic Divide to operate successfully.

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6. Purchase or obtain existing surface water rights and/or storage rights to be used as replacement water for any injurious depletions to surface water rights resulting from pumping of the Subdistrict Wells.

D. Restoration of Ground Water Levels and Groundwater Storage

In order to insure that there is recovery and maintenance of groundwater storage in the Unconfined Aquifer at a historically sustainable level and to assist in the effort to permanently maintain the Hydraulic Divide, the objective of this part of the plan is to reduce the number of acres irrigated in the Subdistrict by 40,000. Specifically, the program objective is to achieve the recovery of sustainable aquifer levels measured by Unconfined Aquifer storage at levels between 200,000 and 400,000 acre-feet below the storage level that existed on January 1, 1976 within 20 years after judicial acceptance of this Plan. Until such time as this objective is met and maintained, the following actions shall be implemented:

1. Assist in formulating and submitting a CREP Application for 40,000 acres in the Subdistrict.
2. Encourage participation in the CREP by providing the local cost share and certain additional incentive payments.
3. Reduce total consumption from irrigation well withdrawals with the objective of increasing Unconfined Aquifer storage within 20 years to a level between 200,000 and 400,000 acre-feet below the storage level that existed on January 1, 1976. It is anticipated that to achieve sufficient

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reduction of well withdrawals to accomplish the Unconfined Aquifer storage goal, dry-up of approximately 40,000 acres of land previously irrigated during calendar year 2000 will be required.

4. To achieve the intended reductions of well withdrawals and irrigated acreage in a timely manner, up to 20,000 acres of land previously irrigated in 2000 may be designated for reduction by December 31st of the fifth calendar year after judicial acceptance of this Plan. In a similar manner, if the goals in paragraph III.D.3 above are not achieved, up to 30,000 acres in total may be designated for reduction by December 31st of the seventh year, and if the goals in paragraph III.D.3 above are not achieved, up to 40,000 acres in total may be designated for reduction by December 31st of the tenth calendar year after judicial acceptance of this Plan, subject to the provisions of paragraphs III.D.3 and III.D.7 hereof.
5. No later than after ten years during which up to 40,000 acres of annual dry-up has occurred, if incremental storage improvements toward meeting the goal and/or the establishment of the Hydraulic Divide has not been achieved, the Board of Managers shall adjust the program of fees and charges within the economic means of the irrigators in order to provide funding to obtain a further reduction in groundwater consumption during the subsequent years or to take such other steps that may be required to make measurable progress toward the goal(s).

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6. If the Hydraulic Divide is established the efforts to restore the Unconfined Aquifer storage level will continue.

7. After the Subdistrict's Unconfined Aquifer storage level goal is achieved and the Hydraulic Divide is maintained in an uninterrupted manner, total consumption from irrigation well withdrawals will be managed in a manner that assures continued maintenance of a sustainable level in the Unconfined Aquifer determined by the Board of Managers, and approved by the State Engineer, necessary to protect senior surface water rights, prevent interference with the Rio Grande Compact, and the needs of Subdistrict irrigators. All measurements used to gauge success in reaching Unconfined Aquifer Storage goals will be based on a five year running average of annual storage levels derived from the average of monthly levels.

8. The Board of Managers of Special Improvement District No. 1 of the Rio Grande Water Conservation District shall provide an annual accounting and reporting structure that includes data and information relevant to Plan operations in content, format and scheduling deemed acceptable to the Division III Engineer prior to operation of the Plan of Water Management.

9. The methodology and procedure for making the annual accounting described above, including the methodology to calculate injurious

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depletions to surface water rights and their replacement is fully set forth in
Appendices 1 - 5, attached hereto and incorporated hereby.

IV. SUBDISTRICT COSTS, FEES AND CHARGES

The Subdistrict is entitled to raise funds by assessment or reasonable service and user fees to carry out the purposes set forth in the Plan. The Subdistrict therefore intends to finance its costs by raising sufficient annual revenue, in a fair and equitable matter, through the imposition of a variable service and user fee (or assessment), as described below.

The Subdistrict Plan is based on an economic-based incentive mechanism to reduce water consumption and encourage responsible water management, through implementation of Service Plan improvements. The objective of the financing program is to provide for those landowners who use smaller quantities of groundwater and contribute larger quantities of river water to the Unconfined Aquifer in the Subdistrict to pay a lower charge, and those landowners who pump larger quantities of water, and/or do not contribute surface water from the Rio Grande, to pay a higher charge. The rationale for this proposed differential is that those landowners who use less groundwater, and/or deliver more surface water into the Subdistrict, make lesser use of the services of the Subdistrict in maintaining a groundwater supply for use than those landowners who rely more on groundwater.

The Subdistrict will also require a source of financing for operation and management of the Plan of Water Management; including a stable source of cost-share funding required for participation in the Conservation Reserve Enhancement Program (CREP).

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The Subdistrict will also require a source of financing for operation and management of the Plan of Water Management, and an Administrative Fee will be assessed for that purpose.

A. Description of the Annual Fee

The Annual Fee is a service and user fee (or assessment) which will consist of three components. Each component will be evaluated, and if appropriate, adjusted by the Board of Managers annually in response to the demands of the Water Management Plan.

The components are as follows:

1. An Administrative Fee of up to five dollars (\$5) per Subdistrict acre to provide sufficient revenue to fund the operations of the Subdistrict and to repay any sums advanced by the District during the formation process. The Board of Managers has determined that the cost of Subdistrict operation should be borne equally by all Subdistrict acres.
2. A CREP Fee of up to twelve dollars (\$12) per Subdistrict acre to provide sufficient revenue to fund the local cost share components of a CREP Program designed initially to retire from irrigation a total of 40,000 acres of land in the Subdistrict. The Board of Managers has determined that a defined revenue stream is necessary in order to successfully complete a CREP application and that the benefits of a CREP program in the Subdistrict apply to all Subdistrict acres. The CREP fee will be used to

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fund the local cost share for the CREP when it is approved. If the CREP application is not approved, the CREP fee will be zero.

3. A Variable Fee based on a Water Value of up to seventy-five dollars (\$75) per acre foot of water, charged against the amount of water actually pumped from the wells on each farm or farm unit, to provide revenue for the Subdistrict improvements including permanent retirement and/or annual fallowing of the required acreage, protection of senior surface water rights and to develop necessary infrastructure improvements.
4. Confined aquifer wells will be subject to the same assessments except as provided in part VI below.

B. Calculation of the Variable Fee

The Variable Fee will be determined as follows:

1. Determine Total Groundwater Pumping. No later than October 31 of each year, for each irrigated landowner within the Subdistrict (as shown by County records), the Subdistrict shall:
 - a. Identify wells and irrigation systems used by each landowner (“Subdistrict Wells”),
 - b. Read or have reported the readings from each totalizing flow meter installed on Subdistrict Wells in accordance with the State Measurement Rules or, in the absence of a totalizing meter, cooperate with the State Engineer in

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obtaining the amount of pumping from wells without totalizing meters through the use of Power Conversion Coefficients in accordance with the procedures in the Measurement Rules.

- c. Calculate the total amount of groundwater pumped on each farm or farm unit by totaling the amount of water pumped by all Subdistrict Wells on the farm or farm unit.

2. Determine Surface Water Credit

- a. Examine Surface water diverted into the Subdistrict from the Rio Grande:³

The following ditch systems divert surface water into the Subdistrict:

Rio Grande Canal ⁴	approx. 302 shareholders
San Luis Valley Irrigation Dist.	approx. 147 landowners
San Luis Valley Canal	approx. 88 shareholders
Prairie Ditch Company	approx. 67 shareholders
Billings Ditch Company	approx. 17 shareholders

³ There are approximately 50 landowners who own land which has no surface water ditch affiliation.

⁴ The Rio Grande Canal diversions include part of the water stored by the Santa Maria Reservoir Co., and not all shareholders in the Rio Grande Canal own shares in the Santa Maria Reservoir Co. For purposes of the calculation, any diversions from Carnero or La Garita Creeks meeting the criteria in Section II-D will be treated in a similar fashion to the listed ditches.

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- b. Calculate Amount of Surface Water Used: No later than October 31 of each year, for each irrigated landowner within the Subdistrict as defined by current County records, the Subdistrict shall:
- i. calculate the amount of surface water allocated to the farm or farm unit by virtue of the shares of the canal or reservoir company attributable to the lands within the farm or farm unit or allocable to lands within an irrigation district based upon a five year running average utilizing the current water year and the four previous years.
 - ii. calculate the amount of surface water applied directly to irrigation or other beneficial use and not used for recharge and deduct the consumptive share of such water from the surface water value calculated above to determine the Surface Water Credits for each farm or Farm Unit.
3. Determine Net Groundwater Pumped. The Surface Water Credit will be deducted from the Total Groundwater Pumped to determine the Net Groundwater Pumped.
4. Determine Water Value: The charge per acre foot of Net Groundwater Pumped shall not exceed seventy-five dollars (\$75) per year and may be adjusted by the Board of Managers annually.
5. Calculation: All calculations will be on a farm or Farm Unit basis.

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- a. The Subdistrict will total all groundwater pumped from all wells allocated to the farm or Farm Unit, as described in IV-B-1 above;
- b. The Subdistrict will calculate the five year running average of all surface water creditable to the farm or Farm Unit, with appropriate modification for surface water applied directly to irrigation, as described in IV-B-2 above;
- c. The Subdistrict will subtract the creditable surface water as described in IV-B-2 above from the total pumped water as described in IV-B-1 to produce the Net Groundwater Pumped;
- d. The Subdistrict will identify the Water Value per acre foot for the year;
- e. The Subdistrict will multiply the total Net Groundwater Pumped by the Water Value to determine the basic Variable Fee for the farm or Farm Unit;

C. Total Annual Service and User Fee

The total Annual Service and User Fee for each farm or Farm Unit for any one year will be equal to the total of the Administrative Fee (IV-A-1) plus the CREP Fee (IV-A-2), plus the Variable Fee (IV-B). The total Annual Service and User Fee will thereafter be submitted to the District for approval and then to each Subdistrict County for addition to its tax rolls and collection in accordance with Colorado law.

D. The Fees provided for above and the requirements to measure groundwater diversions shall not be applied to lands that are irrigated solely with surface water.

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E. The Fees provided for above shall not be applied to lands that are irrigated solely from the confined aquifer if a landowner's request to be relieved of the obligation has been granted by the Board of Managers in accordance with Section VI.

F. Subdistrict lands enrolled in programs that will result in their permanent removal from irrigation shall not be subject to further subdistrict fees from the time that the permanent removal has been legally committed and dry up has occurred.

G. Whatever financial circumstances may ensue, unless there is replacement of injurious depletions as determined by the RGDSS groundwater model, the Subdistrict Wells will not be entitled to the benefit of exemption for curtailment by the State Engineer pursuant to section 37-92-501(4)(c).

H. The Board of Managers will adopt rules, regulations and/or guidelines to facilitate the application and use of the full credit for all surface water annually delivered from the river, in a manner consistent with articles and bylaws of the respective ditch companies. The Subdistrict intends to insure that an equitable procedure be established that provides landowners whose IV-B-5-6 surface water contributions exceed the amount of groundwater pumped, as calculated in IV-b-5-a for the same period, receive fair compensation for any excess. See Appendix 2, attached hereto.

I. In order to insure that all Subdistrict landowners receive fair and equal treatment, the Board of Managers will consider appeals by such landowners if the Annual Service and User Fee is considered to be inaccurate or in error. The Board of Managers may hear any such appeal

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or may choose to appoint a hearing officer to hear any such appeal and make a recommendation to the Board. If it is determined that an error was made an adjustment will be made in computing the subsequent year's Annual Service and User Fee. The Board of Managers may adopt regulations to govern any appeal process. In the absence of such regulations the provisions of the Colorado Administrative Procedures act will apply.

J. Any funds collected from contracts with non-Subdistrict entities will be applied to advance the Plan Goals and Overall Objective.

K. The Subdistrict agrees to comply with applicable rules and regulations promulgated by the State Engineer in Division 3 as they are adopted. To the extent that a provision of this Plan of Water Management is less stringent than applicable rules and regulations or conflicts with adopted rules and regulations, the Subdistrict will comply with the applicable requirements of the properly promulgated and adopted rules and regulations.

V. ANTICIPATED BENEFITS

A. Subdistrict Benefits

Anticipated benefits to Subdistrict members of implementing the Plan include:

1. stabilization of the groundwater supply;
2. higher average groundwater levels, resulting in lower pumping heads;
3. sustainable groundwater supply for Subdistrict wells;
4. economic support for landowners who withdraw land from irrigation;

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5. avoid state imposed groundwater regulation and the attendant need to have costly plans for augmentation approved by the Water Court as a condition for the continued operation of wells;
6. prevent injury to senior surface water rights; and
7. prevent interference with Colorado's obligations under the Rio Grande Compact.

B. Benefits to the San Luis Valley

The resulting stabilization of water levels within the Subdistrict will have broad benefits to the economy of the San Luis Valley as a whole.

VI. SUBDISTRICT LAND SERVED BY THE CONFINED AQUIFER

Irrigated land within the Subdistrict that receives all or a portion of its water supply from confined aquifer wells shall be considered to be covered by this Plan, however, at the election of the landowner such land shall be entitled to be reclassified if and when the confined aquifer wells are legally required to provide augmentation water to any stream system or aquifer system and inclusion in the Subdistrict does not satisfy the augmentation requirement. Until that time, it will be treated just like other lands served with groundwater in recognition of the requirements in this Plan of Water Management described in III-C and must replace injurious depletions occurring to surface water rights. Any irrigated land within the Subdistrict receiving its groundwater supply exclusively from the confined aquifer may be relieved of the obligation to pay the fees set forth above if the landowner petitions the Board of Managers for such relief and provides proof that the source of groundwater is exclusively from the confined aquifer. After receiving the request

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seeking exemption from Subdistrict fees for a confined aquifer well(s), the Board of Managers will consider any information provided and must conclude that it establishes clearly and convincingly that the well(s) diverts exclusively from the confined aquifer. If the Board does not so conclude it will refuse to grant relief from the fees. Wells completed into more than one aquifer will not qualify for relief. If a subdistrict is created for Confined Aquifer wells, Confined Aquifer wells participating in Subdistrict No. 1 may elect to continue as members of Subdistrict No. 1, to change their participation to the Confined Aquifer subdistrict, or to comply with rules and regulations enacted by the State Engineer for such wells.

VII. BOARD OF MANAGERS

The eleven member Board of Managers will be selected in the manner provided for in the Petition.

This Proposed Plan of Water Management for the Special Improvement District No. 1 of the Rio Grande Water Conservation District is submitted this ___ day of _____, 200__.