

Exhibit F

PETITION FOR ESTABLISHMENT OF
SPECIAL IMPROVEMENT DISTRICT NO. 2
OF THE
RIO GRANDE WATER CONSERVATION DISTRICT
(Conceptual Plan of Water Management)

CONCEPTUAL PLAN OF WATER MANAGEMENT
Special Improvement District No. 2 (Rio Grande Alluvium)
of the
Rio Grande Water Conservation District

I. BACKGROUND AND BASIS FOR THE PLAN OF WATER MANAGEMENT.

The proponents of Special Improvement District No. 2 of the Rio Grande Water Conservation District (“Subdistrict”) propose to form a subdistrict of the Rio Grande Water Conservation District (“District”) to ensure the replacement of injurious depletions to senior water rights or remedy such injury by means other than providing water to replace stream depletions resulting from the withdrawal of ground water by wells within the Subdistrict, and, if necessary, to conserve and stabilize the water supply and amount of ground water in storage for existing irrigation and other beneficial uses within the area generally included within the boundaries of the Colorado Division of Water Resources designated Rio Grande Alluvium Response Area. The Proponents anticipate that a Board of Managers will develop and adopt a Plan of Water Management that will govern the proposed Subdistrict. This document sets forth a conceptual Plan of Water Management in general terms pursuant to section 37-48-123(2)(g), C.R.S., and will be circulated with the Petition to form the Subdistrict.

Proponents of the Subdistrict anticipate a wide range of benefits to Subdistrict members, and the San Luis Valley as a whole, including mitigating material injury to senior surface water rights that may result from ground water use, stabilizing and maintaining a sustainable ground water supply, meeting criteria for a compliance plan under State of Colorado, Division of Water Resources Rules Governing the Withdrawal of Ground Water in Water Division No. 3 or other laws or rules requiring well administration, and providing an alternative for augmentation plans approved by the Water Court as a condition for the continued operation of wells.

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Participation in the Subdistrict is strictly voluntary. The Alluvial Subdistrict will include only those members, who after reviewing this conceptual Plan of Water Management and the other information made available to interested well users and otherwise being fully apprised of the ramifications of joining the Subdistrict, sign the petition seeking formation of the Subdistrict.

Participation in the Subdistrict is limited to lands served by wells that withdraw ground water for a beneficial use that is located within Water Division No. 3. Where a well is used as a source of water for augmentation, substitution or exchange for another water right, such other water right must be diverted within Water Division 3 for a beneficial use located within Water Division No. 3.

Land petitioned into the Subdistrict will remain a part of the Subdistrict for as long as the Subdistrict is in existence. Well users are encouraged to review this conceptual Plan and the other formation documents carefully and to consider the benefits and obligations associated with participating in the Subdistrict before deciding whether to sign the formation petition.

Information is readily available at the public meetings of the Rio Grande Alluvium Subdistrict workgroup or by contacting RGWCD staff or any member of the Rio Grande Alluvium Subdistrict workgroup.

II. SUBDISTRICT TERRITORY.

Pursuant to section 37-48-123(d), C.R.S., the Subdistrict territory generally includes lands with wells used for municipal, commercial or industrial purposes or that are irrigated in whole or in part by wells within the Rio Grande Alluvium Response Area of the Rio Grande Decision Support System (“RGDSS”), where the landowners of such lands, or representatives

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legally authorized to act on behalf of the landowners, sign the Petition seeking formation of the Subdistrict. "Landowners," as used throughout this Plan, refers to the owners of lands and appurtenant wells that are included within the Subdistrict.

A map of Subdistrict lands is included as Exhibit A. A property description of the lands included in the Subdistrict is included as Exhibit B. A list of the current Subdistrict Wells, with the corresponding WDID numbers, providing ground water to Subdistrict lands is included as Exhibit C.

To the extent permitted by law, the Subdistrict may contract or enter into cooperative agreements with other well owners, water users, mutual ditch or reservoir companies, water user's associations, subdistricts, governmental entities and other persons or entities within or without the boundaries of the Subdistrict to advance the Plan Goal and Overall Objective.

III. OVERALL OBJECTIVE OF THE SUBDISTRICT.

The overall objective of this Plan is to provide a water management alternative to individual augmentation plans or state-imposed regulations that limit the use of wells within the Subdistrict, that is, a system of self-regulation using economic-based incentives that promote responsible ground water use and management and that calculates and mitigates the injury to senior surface water rights that result from ground water use on Subdistrict lands. The operation of this Plan will comply with the requirements of Senate Bill 04-222, codified at section 37-92-501(4), C.R.S.

The central goal that must be achieved in order for the Subdistrict to operate without state imposed limitations on the use of wells within the Subdistrict is to replace or otherwise remedy

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injurious depletions to senior surface water rights resulting from ground water use on Subdistrict lands or, by contract, from other ground water withdrawals. To achieve these goals, the Subdistrict will calculate, on an annual basis, the injurious depletions caused by withdrawal of ground water from Subdistrict Wells. The Subdistrict will acquire replacement water supplies in order to offset such injurious stream depletions or remedy such depletions by means other than providing water, to the full extent required by law.

Subdistrict members that divert ground water from the underlying unconfined aquifer system presently operate pursuant to well permits and/or decrees recognized under Colorado law.

If the Subdistrict is unable to achieve its goals as described above, then Subdistrict members who divert ground water will have limitations imposed on the use of their wells for the diversion of ground water, including complete curtailment of withdrawal of ground water through the wells, through administrative rules and regulations by the State of Colorado.

IV. EFFECT OF SUBDISTRICT AND PLAN OF WATER MANAGEMENT.

Neither the creation of the Subdistrict nor this Plan will alter or affect any vested surface or ground water right, nor shall the creation of the Subdistrict or the implementation of 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.

Water rights purchased, leased or retired by the District on behalf of the Subdistrict will be used to replace injurious depletions resulting from the withdrawal of ground water by wells within the Subdistrict and/or to protect and enhance the water supply for the ground water users

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within the Subdistrict. Purchased and/or retired water rights will not be resold or used for purposes inconsistent with the Plan of Water Management.

If a farm owner or operator elects to temporarily reduce the amount of land under irrigation with ground water in order to achieve the goals of this Plan, such reduced irrigation is for conservation purposes and to assist in the mitigation of injurious depletions to senior water rights, and will not be considered to be a period of non-use for purposes of abandonment or reductions in the water right, as provided by law.

Only Subdistrict lands and associated water use (i.e., those lands irrigated in whole or in part by wells or upon which ground water is put to a beneficial municipal, commercial or industrial purpose, (“M&I”) where the landowners of the M&I or irrigated acreage, or representatives legally authorized to act on behalf of the landowners of the M&I or irrigated acreage, sign the Petition seeking formation of the Subdistrict) will be subject to assessment by the Subdistrict. Lands or ground water use operating within a court approved augmentation plan or operated as a decreed alternate point of diversion for surface water will not be subject to assessment to the extent the pumping impact is fully replaced under the augmentation plan. Ground water withdrawals outside of an approved augmentation plan, but otherwise within a permit or decree, will be subject to assessment.

V. SUBDISTRICT GOVERNANCE.

The Subdistrict is a political subdivision of the Rio Grande Water Conservation District (“District”). A seven member Board of Managers will be selected in the manner provided for in

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the Petition for Establishment of Special Improvement District No. 2 of the Rio Grande Water Conservation District and will govern the Subdistrict.

The Managers of the Board of Managers will receive as compensation not more than \$50.00 per day while actually engaged in the business of the Subdistrict, and, in addition, Managers will be entitled to their actual traveling and transportation expenses when away from their respective places of residence on Subdistrict Business, but shall not be reimbursed for mileage.

VI. DESCRIPTION OF PLAN OF WATER MANAGEMENT.

After the formation of the Subdistrict, the Board of Managers will use this conceptual plan to develop a detailed Plan of Water Management and present such Plan to the Board of Directors of the District for consideration and adoption as the official plan of the Subdistrict pursuant to the terms of section 37-48-126, C.R.S. After District approval, the Plan of Water Management will be submitted for consideration and approval by the State Engineer in accordance with section 37-92-501(4)(c), C.R.S.

The Plan will require that all Landowners operating Subdistrict wells consumptively using ground water are required to contribute financially to insure that injurious depletions to senior surface water rights resulting from ground water withdrawals are replaced or otherwise remedied, prevent unreasonable interference with the state of Colorado's ability to fulfill its obligations under the Rio Grande Compact, provide an alternative to state administration of ground water withdrawals in the proposed subdistrict, and, if necessary, reduce the total amount of ground water consumption occurring within the Subdistrict and an equitable means to finance

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that reduction. The Plan may, but is not required, to recognize, financially or otherwise, surface water brought into the Subdistrict and recharged to benefit the unconfined alluvial aquifer underlying the Subdistrict, with due regard of the timing and duration of such recharge.

The Plan must be implemented in the first year of Subdistrict operation and every year thereafter. The Plan will generate sufficient revenues to fund the operations of the Subdistrict, including, without limitation, replacing or mitigating any injurious depletions calculated to occur to senior surface water rights as the result of Subdistrict and contract well withdrawals of ground water, and, if necessary, to permit the retirement or temporary fallowing of sufficient acres within the Subdistrict to achieve a sustainable water supply in the aquifer system with due regard for the daily, seasonal and long-term demands on the aquifers and to protect senior surface water rights, as may be required under Colorado law.

VII. FINANCING THE SUBDISTRICT.

The Subdistrict shall set fees based on a detailed annual budget developed by the Subdistrict concerning the implementation of an annual replacement plan during the next calendar year. The budget shall specifically describe the revenues required to pay for each of the planned expenditures, and the nature and amount of each of the specific fees or assessments proposed to generate such revenues. The Subdistrict shall be limited to expenditures in the amounts and for the purposes specified in the budget unless an amended budget is adopted, after proper notice, in accordance with the provisions of Colorado law.

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A. Administrative Fee.

As it will be necessary to fund ongoing administrative and other costs not directly dependent upon the quantity of ground water withdrawn by Subdistrict or contract wells, the Subdistrict may establish an administration fee between \$0 and \$1,000 per well ID number (“WDID”) located within the Subdistrict. The Subdistrict may establish a tiered administrative system by class of well use, with inactive wells or those wells withdrawing a small amount of ground water, being assessed a lower administration fee if the Subdistrict determines that a class of well use results in less actual administrative costs to the Subdistrict. Where multiple wells are combined through a single meter, providing a single total ground water withdrawal amount, the Subdistrict may consider such a combined system to be a single Subdistrict Well for purposes of assessing the Administrative Fee.

The total Administrative Fee, if any, charged by the Subdistrict for a given year shall be limited to the amount shown by specific items in the budget as reasonably required to fund staff, engineering and/or legal in operating the Subdistrict and to repay any sums advanced by the District during the formation process.

Based on a preliminary budget, it is expected the Administration Fee for the first year of Subdistrict operations will be approximately \$500.00 per well per year.

B. Pumping Fee.

The Pumping Fee shall be between \$0 and \$150.00 per acre-foot of ground water withdrawn per Subdistrict Well per year. The fee shall be based on gross ground water withdrawals, as reported to the Colorado Division of Water Resources or on such other recording

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or data acceptable to the Subdistrict. The Pumping Fee will not be based or assessed on net withdrawals of ground water or net depletion to the aquifer(s). The Subdistrict may assess the Pumping Fee one year in arrears and may base the Pumping Fee on a rolling average of ground water withdrawals not to exceed five years. The Board of Managers may establish a multi-tiered system of Well Water Withdrawal Fees based upon broad classes of type of use, with differing fees between those classes in order to recognize the differing class' ranges of consumptive use of water and the depletions to surface streams caused by class' ground water withdrawals.

The total Pumping Fee for a given year shall be limited to the amount shown by specific items, including legal and engineering costs, in the budget as required to provide sufficient revenue for that year for the Subdistrict improvements specified in the budget, including protection of senior surface water rights, permanent retirement and/or annual fallowing of lands and necessary infrastructure improvements.

Based on a preliminary budget, it is expected the Pumping Fee for the first year of Subdistrict operations will be approximately \$45.00 per acre-foot.

VIII. ACTS AND IMPROVEMENTS.

In order to further the goals and objectives of the Plan, the Subdistrict may implement some or all of the actions in the following non-exclusive list of acts or improvements, in the discretion of the Board of Managers:

1. Calculation and replacement or remedy of injurious stream depletions.
2. Recommend and request that the Board of Directors of the Rio Grande Water Conservation District purchase, rent and/or lease and retirement of irrigated lands

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and/or purchase, rental and/or lease of water rights and/or reservoir storage, either within or without the exterior boundaries of the Subdistrict.

3. A program of temporary fallowing, including providing economic incentives for temporary fallowing, potentially in cooperation with federal programs, to remove acreage from production, on an ongoing basis, to achieve reduction in water consumption necessary to achieve the goals of the Plan.
4. Economic incentives for the permanent removal of lands from irrigation, including incentive payments and if applicable providing the local cost share as required by potential federal programs.
5. Provide economic incentives for Landowners or non-members to provide replacement water, land, or facilities for the benefit of the Subdistrict.
6. Calculation of increases and decreases in ground water recharge.
7. Infrastructure improvements to maximize the diversion and recharge of water available to Colorado under its Compact allocation.
8. Education and research into water conservation, water use efficiency, improved water management, and public education on agricultural water use.
9. Improvement and operation of ditches, head gates, and recharge facilities to make the best use of available water and to improve ground water recharge.
10. Data collection and analysis programs designed to verify and improve RGDSS ground water model predictions, further refine the calculation of stream

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depletions caused by ground water withdrawals, or otherwise help the Subdistrict achieve Plan objectives.

11. Work in cooperation with USDA-NRCS to develop annual water supply forecasts based on SNOTEL and snow course data. Determine historical stream flow volumes based on paleo dendrochronology or other methods to correlate precipitation to rim inflows.
12. Provide economic credit to Subdistrict Well Owners who provide replacement water, land or facilities for the benefit of the Subdistrict.

Take such other actions or gather such data as would be helpful to further refine the calculation of stream depletions caused by ground water withdrawals.

This is a non-exclusive list of acts and improvements. The Subdistrict may elect to implement acts and improvements not specifically set forth herein to further the goals and objectives of the Plan.

By voluntarily petitioning land into the Subdistrict, Landowners explicitly authorize, and agree to abide by, any ground water allocations or limits imposed by the Board of Managers either by individual well or by farm unit. Landowners further understand and agree that the Board of Managers may impose economic disincentives or penalties reasonably necessary to further the goals or objectives of the Plan of Water Management or to comply with Colorado law. Because the Subdistrict will operate in perpetuity once formed, these covenants, as specifically set forth in the Individual Petition,

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will run with the land petitioned into the Subdistrict and bind all current and future owners of Subdistrict Lands.

The Plan will operate for an indefinite period to insure that the aquifer systems are in a sustainable condition and to achieve replacement of injurious depletions to senior surface water rights resulting from ground water withdrawals. At such time as the ground water supply in the unconfined aquifer systems within the Subdistrict is sustainable, with due regard to the daily, seasonal and long-term demands on the ground water supply, and the operation of ground water wells in the Subdistrict is not causing injurious stream depletions 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.

A. Calculation and Replacement of Injurious Impacts to Senior Surface Water Rights Resulting from Subdistrict Well Ground Water Withdrawals.

The Subdistrict will comply with the current and future requirements of the Rules Governing the Withdrawal of Ground Water in Water Division No. 3 to calculate depletions to surface streams caused by the withdrawal of ground water through Subdistrict Wells. The Subdistrict will similarly comply with the current and future requirements of the Rules Governing the Withdrawal of Ground Water in Water Division No. 3 to predict the time, location and amount of replacement water to surface water streams.

The Subdistrict may establish and install a network of stream gauges to directly measure stream depletions and verify said predictions where practicable.

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The Subdistrict may recommend and request that the Board of Directors of the Rio Grande Water Conservation District contract with willing surface water rights holders to purchase or lease water for recharge, storage, or other means of augmentation or replacement to address stream depletions from the operation of Subdistrict wells, and purchase or lease lands associated with such water. The Subdistrict may also recommend and request that the Board of Directors of the Rio Grande Water Conservation District contract with surface water right holders to purchase or lease any available surplus augmentation credits from qualifying court approved augmentation plans.

To the extent permitted by law, the Subdistrict may contract with well owners that are not members of the Subdistrict to further the Subdistrict Goals and Objectives. Such contracts may be subject to inclusion fees, different Administrative and Well Water Withdrawal fees than those charged to Landowners, and/or additional terms and conditions, as the Board of Managers may deem necessary or desirable to meet the goals of the Subdistrict.

B. Restoration of Ground Water Levels and Ground Water Storage.

In order to monitor and measure the recovery and maintenance of the level in the unconfined aquifer systems, the Subdistrict may identify a network of aquifer monitoring wells to observe aquifer conditions. The Subdistrict may also provide a financial incentive to Subdistrict members who bring surface water into the Subdistrict and recharge some or all of that water into the unconfined aquifer underlying the Subdistrict that benefits Subdistrict Wells.

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C. Accounting Mechanism to the State Engineer.

The Subdistrict shall submit to the Division Engineer all information required to comply with the current and future requirements of the Rules Governing the Withdrawal of Ground Water in Water Division No. 3 or as otherwise required by the Division Engineer through approval of a plan of water management or future annual replacement plans.

D. Other Management Tools.

The Board of Managers will adopt rules, regulations and/or guidelines to facilitate the operation of the Subdistrict, subject to the approval of the Board of Directors of the Rio Grande Water Conservation District. In order to manage water use within the Subdistrict, the Subdistrict may use some or all of the following acts and policies:

1. Sets of multiple tiered fees based on quantity ground water withdrawals.
2. Annual ground water withdrawal allocations and limits.
3. Economic disincentives for excessive or inefficient ground water use.
4. Economic or other penalties for violating Subdistrict rules or regulations.
5. Monthly ground water meter reporting to the Subdistrict.
6. Contracts with government or other public entities to allow such governments or other entities to become members of the Subdistrict and have the responsibilities and benefits of other members of the Subdistrict.

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7. Contracts with persons or entities who irrigate lands solely with surface water to allow such persons or entities to become members of the Subdistrict and have the responsibilities and benefits of other members of the Subdistrict.

E. Appeal Procedures.

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 Subdistrict Fees are considered inaccurate or in error. The Board of Managers may hear any such appeal 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 Subdistrict Fees or refunded. The Board of Managers may adopt rules and regulations to govern any appeal process; in the absence of such rules and regulations the provisions of the Colorado Administrative Procedures act will apply.

F. Use of Contract Funds.

Any funds collected from contracts with non-Subdistrict entities will be applied to advance the Plan Goals and Overall Objective or to offset the Administrative costs of operating the Subdistrict.

IX. CURRENT DATA REGARDING SUBDISTRICT IMPACTS.

See Exhibit G, attached hereto.