

<p>DISTRICT COURT, SAGUACHE COUNTY, COLORADO</p> <p>Saguache County Courthouse 501 4th Street Saguache, CO 81149</p>	<p style="text-align: center;">▲ Court Use Only ▲</p>
<p>IN THE MATTER OF THE RIO GRANDE WATER CONSERVATION DISTRICT,</p> <p>ALAMOSA COUNTY,</p> <p>Rio Grande Water Conservation District 10900 Highway 160 East Alamosa, Colorado 81101 Telephone: 719-589-6301</p> <p>PETITIONER.</p>	
<p>David W. Robbins, #6112 Peter J. Ampe, #23452 Nathan Flynn, #39336 Hill & Robbins, P.C. 1441 18th Street, Suite 100 Denver, CO 80264 Phone: 303-296-8100 Fax: 303-296-2388 E-mail: davidrobbins@hillandrobbins.com peterampe@hillandrobbins.com nathanflynn@hillandrobbins.com</p>	<p>Case Number: 16CV_____</p>
<p>PETITION FOR ESTABLISHMENT OF SPECIAL IMPROVEMENT DISTRICT NO. 4 OF THE RIO GRANDE WATER CONSERVATION DISTRICT</p>	

The Rio Grande Water Conservation District hereby petitions the Court to enter an order establishing a subdistrict of the Rio Grande Water Conservation District as set forth below.

1. The statutory authority for this Petition and for the establishment of the proposed subdistrict is Chapter 37, Article 48, C.R.S., and specifically sections 37-48-108 and 37-48-123.

2. The proposed name of said subdistrict is “Special Improvement District No. 4 of the Rio Grande Water Conservation District.”

3. The property within the proposed subdistrict will be benefited by creation and effectuation of the Subdistrict’s plan of water management to conserve and stabilize the water supply and groundwater storage in a portion of the confined and unconfined aquifers in Saguache County, for irrigation uses for the water users within the boundaries of the Subdistrict and by allowing Subdistrict Wells to operate without administration by the State Engineer.

4. The estimated cost of the plan will not exceed \$1.0 million per year in 2017 dollars, including the annual costs of operation and administration, to prevent injury to senior vested water rights, if necessary protect and/or recover the level of hydrostatic pressure in the confined aquifer system underlying the Rio Grande Decision Support System San Luis Creek Response Area and to prevent unreasonable interference with the state of Colorado’s ability to fulfill its obligations under the Rio Grande Compact.

5. The nature of the benefits anticipated from the plan may include a sustainable supply of water from the confined and unconfined aquifers for groundwater users, higher average groundwater levels, and the avoidance of administration of groundwater withdrawals in the proposed subdistrict by the State Engineer.

6. The territory to be included in the proposed subdistrict is land irrigated, in whole or in part, by non-exempt wells that are withdrawing groundwater which is decreed or permitted for irrigation use from within the boundaries of the San Luis Creek Response Area which lies within the territory of the Rio Grande Water Conservation District. A map of Subdistrict lands is attached as Exhibit A and is made a part of such Petition by reference. A legal description of the

lands included in the Subdistrict is included as Exhibit B, which is attached to this Petition and is made a part of such Petition by reference. A list of the current Subdistrict Wells providing groundwater to Subdistrict lands is included as Exhibit C, which is attached to this Petition and is made a part of such Petition by reference.

7. The methods proposed to finance the subdistrict plan include any combination of one or more of the financing methods that are available to a Subdistrict under section 37-48-123(2)(e), C.R.S., or any subsequent amendments thereof, and may do so without an election. The Subdistrict may utilize a water activity enterprise.

8. The annual revenues from all fees, assessments, or levies on all property within the subdistrict shall not exceed \$1.1 million per annum, in 2017 dollars. These proposed methods of financing are automatically authorized by the signatures of a majority of the landowners within the proposed subdistrict on petitions to the Board of Directors of the District for formation of the subdistrict, and by those on this Petition, and without further election.

9. Petitioners request that a Board of Managers be constituted and initially comprised of five (5) members and one (1) District appointed *ex officio* member. The Board of Managers will publish vacancies, seek applicants, and otherwise attempt to fill open seats in a timely manner, but may operate with as few as three (3) members at any given time. In addition to the regular members, a representative of the Rio Grande Water Conservation District's Board of Directors will serve as a non-voting *ex officio* member of the Board of Managers. The primary role of the *ex officio* member will be to act as a liaison between the District Board and the Board of Managers. The *ex officio* member will be appointed by, and serve at the pleasure of, the District Board.

9.1 Eligibility to Serve on the Board of Managers.

9.1.1 To be eligible to serve as a regular member of the Board of Managers, an individual must either be a landowner or a full-time employee of a Landowner charged with the management and operation of farming, ranching or other activities on Subdistrict land that involve the beneficial use of water from Subdistrict Wells. If duly designated by the landowner, the employee will serve in a representative capacity on the Board in the Landowner's absence. The landowner may revoke the designation at any time by written notice to the Subdistrict. Additionally, the land within the subdistrict must be current on all assessments and in good standing with the subdistrict to permit a landowner or representative to serve on the Board of Managers.

9.1.2 There are no restrictions on the Board of Directors in determining who may be appointed to serve as the *ex officio* member. The *ex officio* member may be a member of the District Board of Directors and may be unaffiliated with the Subdistrict.

9.2 Procedure for Appointing Board of Managers Members.

9.2.1 Regular members of the Board of Managers will be appointed by the District Board of Directors. Any individual interested in serving on the Board of Managers may submit an application to the District Board within thirty (30) days

of the date the vacancy is published. Applications must be in writing and clearly document the applicant's eligibility to serve on the Board of Managers.

9.2.2 The District Board will appoint individuals from the pool of eligible applicants who, in its judgment, will adequately and fairly represent the interests of the Subdistrict and its members.

9.2.3 The *ex officio* member of the Board of Managers will be appointed by the District Board. The District Board may, but is not required to, publish notice of the vacancy and accept applications for the position if it concludes that a member of the District Board will not serve in that capacity.

9.3 Following formation, the inaugural Board of Managers may elect to develop a list of aspirational qualifications to guide the District Board's appointments to the Board of Managers.

9.4 Term of Service.

9.4.1 Terms of the regular members serving on the inaugural Board of Managers will be staggered so as to ensure that the Subdistrict is governed by knowledgeable and experienced members at all times. Two (2) members will serve initial terms of two (2) years, two will serve initial terms of three (3) years, and the remaining member will serve initial terms of four (4) years. Thereafter, members of the Board of Managers will serve four (4) year terms.

9.4.2 The *ex officio* member will be appointed to a term of indeterminate length, but as part of its ongoing supervisory obligations the appointment must be

confirmed by the District Board at least every second year. The District Board may remove or replace the *ex officio* member at any time, with or without cause.

9.4.3 There is no limit on the number of terms an individual may serve as a regular or *ex officio* member of the Board of Managers. However, a regular member wishing to continue serving on the Board of Managers following the expiration of his or her current term must reapply for the position following publication of the vacancy and solicitation of applications from other eligible Landowners. The incumbent member will retain his or her seat only if reappointed by the District Board following a review of all timely-submitted applications.

9.5 The Board of Managers will select from among its members one member to serve as president of the Board and may select such other officers as it deems necessary. Each Manager shall have one vote.

9.6 The Board of Managers will operate both separately and in conjunction with the Board of Directors of the Rio Grande Water Conservation District.

9.7 The Board of Managers will report to and coordinate with the District Board of Directors.

9.8 The *ex officio* member will provide regular updates concerning the Board of Managers activities at Rio Grande Water Conservation District Board meetings.

9.9 The Board of Managers will adopt by-laws governing meeting conduct and procedures and such other matters the Board of Managers deem necessary, in conformance with this Petition.

9.10 The Board of Managers will adopt Subdistrict rules, regulations and/or guidelines to facilitate the operation of the Subdistrict pursuant to section 37-48-112(2).

10. In October of each year, the Board of Managers will provide a written report to the Rio Grande Water Conservation District Board detailing the prior year's operations, achievements, expenditures, and budget, as well as the anticipated operations, expenditures, and budget for the coming year. The annual report will include a certification of the total amount of subdistrict assessments to be levied in the coming year, subject to final approval by the Rio Grande Water Conservation District Board of Directors prior to December 1st. In addition, the Board of Managers will consult with the Rio Grande Water Conservation District Board on an as needed basis to obtain approval for contract bids, acquisition of property, and other matters for which Rio Grande Water Conservation District Board approval is required.

11. The scope of responsibility of the Board of Managers will include the authority to:

11.1 prepare and submit an official subdistrict plan of water management for approval by the Rio Grande Water Conservation District and take such future actions to comply with the approved plan;

11.2 determine the amount, if any, of acreage served with groundwater that must be withdrawn from irrigation under varying hydrologic conditions and determine the manner in which injurious depletions to senior surface water rights caused by withdrawal of groundwater by Subdistrict Wells will be replaced to the affected streams or what other means other than providing water may be used in order to remedy injury to senior water rights;

- 11.3 cooperate with the Rio Grande Water Conservation District Board of Directors to execute and operate all works and improvements in the Subdistrict plan;
- 11.4 solicit and approve bids, and recommend their acceptance by the Rio Grande Water Conservation District Board of Directors, for contracts to carry out the works and improvements in the subdistrict plan;
- 11.5 recommend and request that the Rio Grande Water Conservation District Board of Directors enter into any other contracts reasonably necessary to effectuate the purposes of the plan, including contracts with United States and state governments, corporations, special districts, municipalities and other public and private entities to remedy injurious depletions caused by the withdrawal of groundwater within or outside of the Subdistrict and for other purposes;
- 11.6 request that the Rio Grande Water Conservation District retain employees and other personnel in conjunction with or separate and apart from the Rio Grande Water Conservation District;
- 11.7 monitor measurement devices and collect scientific data in order to effectuate the purposes of the plan;
- 11.8 after consultation with, and with the approval of the Board of Directors, enter upon any lands within or without the subdistrict to make surveys and examinations necessary for the express purpose for the operational activities of the Subdistrict only;
- 11.9 after consultation with, and with the approval of the Board of Directors, improve any watercourse and alter or remove any structure connected to a watercourse, as

reasonably necessary to effectuate the plan, with any costs and notices to be undertaken as provided in section 37-48-132, C.R.S.;

11.10 recommend and request that the Board of Directors of the Rio Grande Water Conservation District purchase, lease, or acquire property as reasonably necessary to effectuate the purposes of the plan in coordination with the Board of Directors of the Rio Grande Water Conservation District and sell or convey such property that is no longer reasonably necessary to effectuate the purposes of the plan in coordination with the Board of Directors of the Rio Grande Water Conservation District;

11.11 recommend and request that the Board of Directors of the Rio Grande Water Conservation District acquire and use water rights or other property by purchase or long or short term leases with or without a pledge of general or specific revenues of the Subdistrict;

11.12 annually determine and certify to the Rio Grande Water Conservation District Board of Directors the total amount of assessments to be levied, subject to final approval and levy by the Rio Grande Water Conservation District Board of Directors; and,

11.13 conduct any other functions and duties as provided for the Board of Managers in sections 37-48-123 C.R.S. *et. seq.*, and in particular, sections 37-48-127 to 37-48-133.

12. **All contracts are subject to approval** by the Rio Grande Water Conservation District Board of Directors and all property acquired, developed, or constructed shall be held in the name of the Rio Grande Water Conservation District or the Water Activity Enterprise **exclusively for** the purposes and benefit of the subdistrict.

13. A majority of landowners owning a majority of the land within the subdistrict has petitioned the Rio Grande Water Conservation District's Board of Directors to organize the subdistrict, and a copy of the foregoing petitions is attached as Exhibit D.

14. A conceptual plan of water management for the subdistrict has been proposed and is attached hereto as Exhibit E and incorporated herein by this reference. The plan is designed to provide a mechanism to prevent injury to senior vested water rights, 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 groundwater withdrawals in the proposed subdistrict, achieve and maintain a sustainable water supply in each aquifer system, with due regard for the daily, seasonal, and long-term demand for underground water, as may be required by Colorado law and, if necessary, reduce the total amount of groundwater consumption occurring within the subdistrict and an equitable means to finance that reduction.

15. A conceptual budget for the proposed subdistrict is attached as Exhibit F and incorporated herein by reference. This conceptual budget is not binding upon the future subdistrict, but is intended to provide information regarding the anticipated costs and fees of the future subdistrict for planning purposes by Landowners.

16. **By voluntarily petitioning land into the Subdistrict, Landowners explicitly authorize, and agree to abide by, any groundwater allocations or limits imposed by the Board of Managers. Landowners further understand and agree that the Board of Managers may impose economic disincentives or penalties, up to exclusion from the ARP, reasonably necessary to further the goals or objectives of the Plan of Water Management or to comply with Colorado law. These covenants, as specifically set forth in the Individual**

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

WHEREFORE, the undersigned qualified petitioners hereby pray for the organization of said territory as a subdistrict of the Rio Grande Water Conservation District, to be called “Special Improvement District No. 4 of the Rio Grande Water Conservation District” pursuant to the provisions of section 37-48-123, C.R.S. and the unanimous resolution of the Board of Directors of the Rio Grande Water Conservation District.

Signed by: _____

Greg Higel
President, Rio Grande Water Conservation District