

Loan Feasibility Study
For
Saguache Pipeline

Sponsored By
Special Improvement District No. 5 of the Rio Grande Water Conservation District, acting by and through
its Water Activity Enterprise

FEASIBILITY STUDY APPROVAL
Pursuant to Colorado Revised Statutes 37-60-121 & 122, and
in accordance with policies adopted by the Board, the
CWCB staff has determined this Feasibility Study meets all
applicable requirements for approval.

Signed

Rachel Fitts

2/22/2021

Date

Executive Summary

Starting March 15th, 2021, the Saguache Subdistrict will be required to replace injurious stream depletions from groundwater wells that are part of the Subdistrict. If the Subdistrict is unable to replace these injurious stream depletions, then approximately 200 irrigation wells will be forced to shut off until the depletions can be remedied.

The Subdistrict is requesting a loan in the amount of \$4,843,970.10 to construct a pipeline which would carry augmentation water from three wells to Saguache Creek at the time, location and amount which the injurious depletions are occurring. A portion of land which was previously irrigated by the wells will be dried up and the historical consumptive use amount of ± 750 ac-ft will then be changed in water court to augmentation use. This water can then be pumped to the creek at time and place as determined by the RGDSS Saguache Response Function.

The Subdistrict will assess its members an annual Groundwater Withdrawal Fee (per ac-ft) in an amount sufficient enough to cover both the loan and interest payments and the operation and maintenance costs for the project. The Subdistrict is required to prepare and approve an annual budget. The Board of Managers will set the annual Groundwater Withdrawal Fee rate during the budget process at a rate required to cover the loan and any operation and maintenance costs.

**Rio Grande Water Conservation District
8805 Independence Way
Alamosa, CO 81101
(719) 589-6301**

Board of Directors

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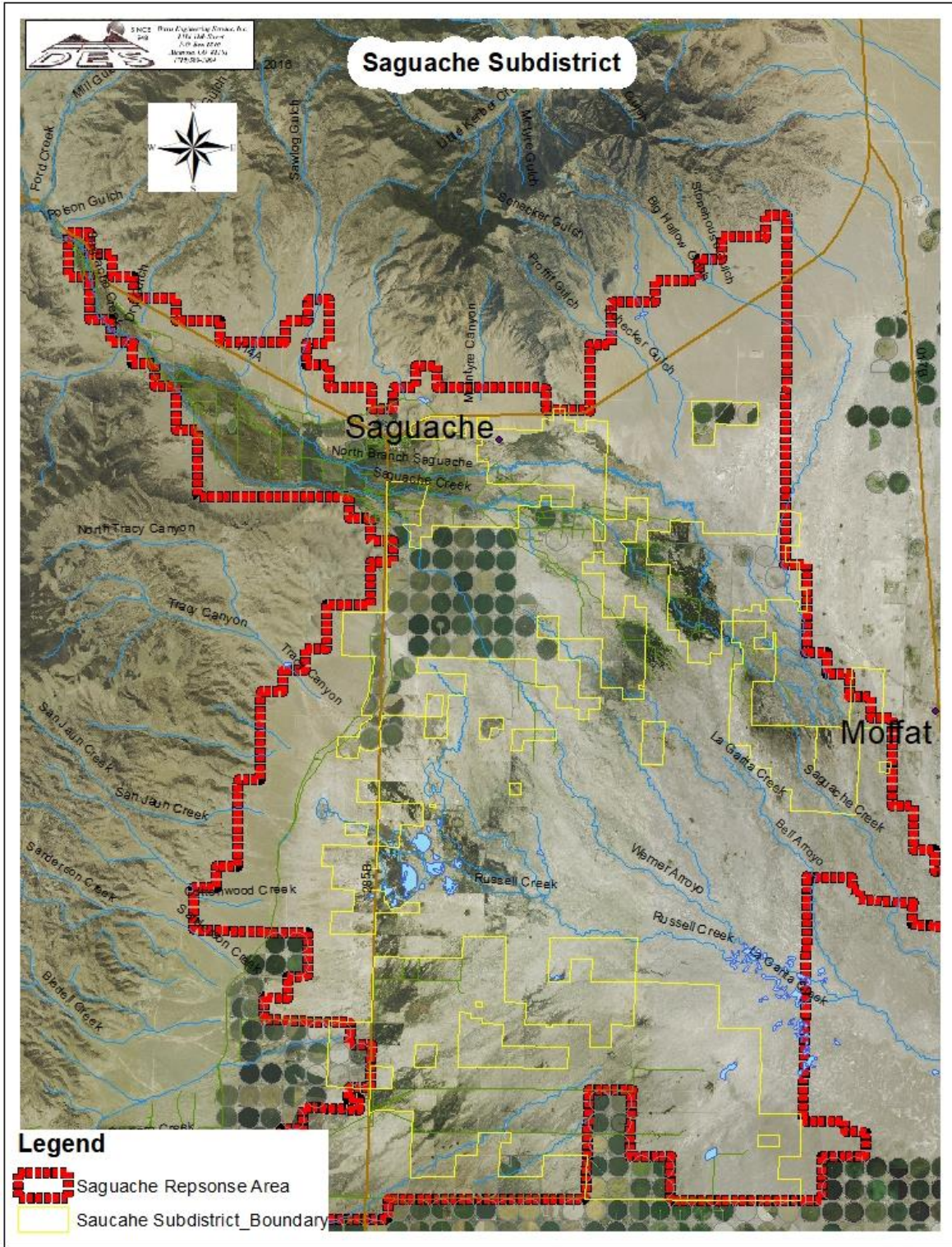
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1.0 Introduction

1.1 Purpose of the Saguache Pipeline

Members of the Subdistrict are landowners within the Rio Grande Water Conservation District who rely on groundwater for all or part of their commercial, industrial and/or irrigated agricultural practices within the area defined by the Rio Grande Decision Support System (RGDSS) Groundwater Model and the Rules Governing the Withdrawal of Groundwater in Water Division 3, District Court, Water Division No. 3, Case No. 15CW3024 as the Saguache Response Area, see Figure 1 below showing a map of the Subdistrict and Response Area. The RGDSS Groundwater Model has calculated stream depletions occurring to surface water streams caused by wells withdrawing water from the groundwater system within the Saguache Response Area that may cause injury to senior surface water rights and/or unreasonably interfere with the state's ability to fulfill its obligations under the Rio Grande Compact, codified in section 37-66-101, C.R.S. In order to remedy the injury or interference, the State Engineer has promulgated Groundwater Rules (Case No. 15CW3024, District Court in and for Water Division No. 3) that will have a direct impact on the future use of groundwater within the Saguache Response Area. Under the Groundwater Rules non-exempt wells can only continue groundwater withdrawals if they have either: an individual Plan for Augmentation, a Substitute Water Supply Plan, or their well is included in a Subdistrict's Groundwater Management Plan and Annual Replacement Plan. The Subdistricts Annual Replacement Plan must demonstrate that the Subdistrict has a sufficient source of replacement water available to replace injurious stream depletions resulting from Subdistrict Well's groundwater withdrawals. The Subdistrict is seeking a \$4,843,970.10 loan from the CWCB Water Project Loan Program in order to fund construction of the Saguache Pipeline. The Subdistrict intends to use the Saguache Pipeline to replace all of its injurious stream depletions occurring to Saguache Creek. This Subdistrict has plans in place to remedy any injurious stream depletions which may occur to San Luis Creek and the Rio Grande as a result of the groundwater withdrawals from these Subdistrict Wells. Funding for and the construction of the Saguache Pipeline will allow the Subdistrict Members to continue operating their Subdistrict Wells.

Figure 1 – Saguache Response Area Map



1.2 Project Sponsor – Special Improvement District No. 5 of the Rio Grande Water Conservation District, acting by and through its Water Activity Enterprise

The Rio Grande Water Conservation District was created by the Colorado General Assembly and formed in 1967 by a vote of the people residing within its boundaries. The District was created to protect, enhance, and develop water resources in the Rio Grande River basin. The District encompasses a five county region, which includes Alamosa, Rio Grande, Conejos and portions of Saguache and Mineral Counties within the Rio Grande River basin, including the Closed Basin. The District is a corporate body and a political subdivision. In order to accomplish its mission, the District is authorized to levy an ad valorem tax on all real property located within the District, collect fees assessments and surcharges. In addition, the District is also authorized to contract with Federal, State and local agencies, and individuals. Under section 37-48-108 C.R.S., the District is authorized to form Special Improvement Districts (subdistricts), which address specific needs and purposes for groups of water users in the District.

Beginning in the early 2000's, the District began the process of forming subdistricts to address the needs of water users in various regions of the District and aid them in complying with the pending Groundwater Rules.

Special Improvement District No. 5 of the Rio Grande Water Conservation District was established by the Saguache County District Court on December 18, 2017, in Case 2017CV30015. The overall purpose of this Subdistrict is to provide a community-oriented water management alternative to individual augmentation plans or state-imposed regulations limiting the use of wells in Water Division No. 3. That is, to provide a mechanism through which a group of well users in the Saguache Response Area can work collaboratively to develop and implement a system of self-regulation using economic-based incentives and other management tools that promote responsible groundwater management and that remedies the injury to senior surface water rights that result from groundwater use from Subdistrict wells. The Subdistrict currently consists of 181 wells that withdraw an average of 33,400 acre-feet of groundwater. There are additional well owners who have stated their intent to contract with the Subdistrict and will also rely on the Subdistrict remedying their injurious stream depletions.

In order to fund their operations, the Subdistrict assesses Annual Service and User Fees by special assessments placed on their members and contract holders' taxes. The fees assessed by the Subdistrict are a per well Administrative Fee and a per acre-foot Groundwater Withdrawal Fee. The per acre-foot Groundwater Withdrawal Fee will be used to fund repayment of the Saguache Pipeline loan. In 2020, the first year of Subdistrict Fees, the Groundwater Withdrawal Fee was assessed at \$14.25 per acre-foot applied through sprinkler irrigation and \$10.30 per acre-foot applied through flood irrigation.

1.3 Project Area

The Project Area is located in the northwesterly portion of the San Luis Valley in Saguache County. The economy in this area is predominately controlled by the agricultural sector. Crops grown in the San Luis Valley include alfalfa, native grass hay, wheat, barley, sorghum,

canola, spinach, lettuce, carrots, and potatoes. Some of the other economic sectors include forestry, tourism, and mining.

The San Luis Valley is a large intermountain basin covering approximately 3,200 square miles of land in southern Colorado and northern New Mexico. The valley is bordered by the Sangre de Cristo Mountains to the east and northeast, the San Juan and La Garita Mountains to the west and northwest, and the Taos Plateau to the south. Snowmelt from the mountains surrounding the valley is responsible for most of the area's stream flow in the associated watershed, including Saguache Creek, the Rio Grande and Conejos River. Approximately 56 percent of the valley is in private ownership. The remaining acres are protected and managed by the U.S. Fish and Wildlife Service, U.S. Forest Service, Bureau of Land Management, National Park Service, and State of Colorado. Most of the private land and wetland habitat occurs on the valley floor, creating one of the largest intermountain valleys in the world.

1.4 Land Uses

Land use in the Subdistrict is predominately irrigated agriculture, with a small amount of fish culture and commercial use. The main crops grown in the Subdistrict are grass hay, grass pasture, and alfalfa. Subdistrict wells withdraw an average of 33,400 ac-ft annually, 55 percent of withdrawals are used for flood irrigation, 43 percent are used for sprinkler irrigation, and 2 percent are for other uses.

2.0 Water Demands and Water Rights Included in the Saguache Pipeline

2.1 Water Supply Demands

The water supply demands are determined by the Rio Grande Decision Support System (RGDSS) Groundwater Model and the Saguache Response Area Response Functions. These tools are used to calculate the Subdistrict's depletions to Saguache Creek on a monthly basis. The magnitude of depletions varies with the April to September flows in Saguache Creek. The Response Function evaluates three unique stream flow conditions; flows less than 26,000 acre-feet (Dry Years), flows between 26,000 and 37,999 acre-feet (Average Years), and flows of 38,000 acre-feet and more (Wet Years). The Saguache Pipeline will need to supply an average of 1187 ac-ft in Wet Years, 581 ac-ft in Average Years, and 203 ac-ft in Dry Years, see Table 1 below.

Table 1 – Saguache Creek Water Supply Demands

	Monthly Injurious Stream Depletions												
Wet Years	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Total
Ac-Ft/Month	355	325	141	188	87	51						40	1187
Ac-Ft/Day	11	11	5	6	3	2						1	
c.f.s./Day	5.77	5.47	2.3	3.06	1.45	0.82						0.67	
Average Years	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Total
Ac-Ft/Month	160	224	83	21	1	0						93	581
Ac-Ft/Day	5	7	3	1	0	0						3	
c.f.s./Day	2.6	3.76	1.35	0.35	0.01	0.00						1.56	
Dry Years	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Total
Ac-Ft/Month	42	21	17	7	9	28						79	203
Ac-Ft/Day	1	1	1	0	0	1						3	
c.f.s./Day	0.68	0.35	0.28	0.12	0.15	0.46						1.33	

Table 1. The table shows the average stream depletions from Response Function results under different April to September Saguache Creek stream flows. Wet Year stream flows are greater than 38,000 ac-ft, Average Years are between 26,000 and 37,999 ac-ft, and Dry Years are less than 26,000 ac-ft.

2.2 Water Rights Included in the Saguache Pipeline

Up to three irrigated quarters will be leased by the Saguache Subdistrict. Each of these irrigated quarters are irrigated using groundwater wells which are run through a sprinkler. Each of these wells are legally decreed through the Division of Water Resources. The decrees for the three wells are included in Attachment 1. The three wells are listed below:

- Permit # 20210-R, WDID 2605690
- Permit # 20228-R, WDID 2605685
- Permit # 18450-F, WDID 2605057

The well permits for each well are included in Attachment 1.

3.0 Project Description

3.1 Purpose and Background of the Saguache Pipeline

The groundwater wells within the Saguache Subdistrict will be required to replace injurious depletions caused to the streams in the nearby area by March 15th, 2021. The wells will owe a certain amount to Saguache Creek, San Luis Creek, and the Rio Grande. It is anticipated

that the Saguache Subdistrict will be able to work with the San Luis Creek Subdistrict to remedy depletions on San Luis Creek. The Saguache Subdistrict will replace depletions on the Rio Grande through the Closed Basin Project and agreements with the other Subdistricts in that area. The Saguache Subdistrict has worked with the community for more than five years to find a suitable source(s) to remedy depletions on Saguache Creek that everyone would agree upon. The following alternatives described below have been considered to remedy depletions on Saguache Creek.

3.2 Analysis of Alternatives

3.2.1 Alternative 1 – Purchase Surface Water Rights and Well Injury Payment Agreements

Surface water rights could be purchased, and the irrigation land could be dried up. The historical consumptive use would be changed to augmentation through water court. The Saguache Creek drainage does not have any existing storage, therefore, the water would have been either left in the creek to meet depletions or with DWR approval the water could be recharged and pumped back to the creek later during the irrigation season when it was needed.

The majority of surface water rights along Saguache Creek are under conservation easements which do not allow the use of the water rights to be changed. Therefore, the Subdistrict has limited options available for purchasing surface water rights. The Saguache Subdistrict has evaluated three separate properties which included surface water rights. Even if the Subdistrict purchases all three properties, the historical consumptive use would not amount to enough replacement water in a wet year, so the Subdistrict would still have to come up with other replacement remedies for Saguache Creek.

Another replacement remedy that was considered with this option is a Well Injury Payment Agreement. A Well Injury Payment Agreement is between the Subdistrict and the surface right owner who is being injured at a certain time and place. The agreement lays out an alternative to remedy injurious depletions between the surface water right owner and the Subdistrict when the surface water right owner is the injured party. The surface water right owner would forego the injury owed to their water right for some type of compensation agreeable to them. This practice is common on the Rio Grande, the Conejos, and the Alamosa Rivers and has allowed other Subdistricts to meet their required injurious depletions on those stream systems. The agreement allows the Owner and the Subdistrict to be creative with the compensation methods, but the most common type of compensation has been monetary.

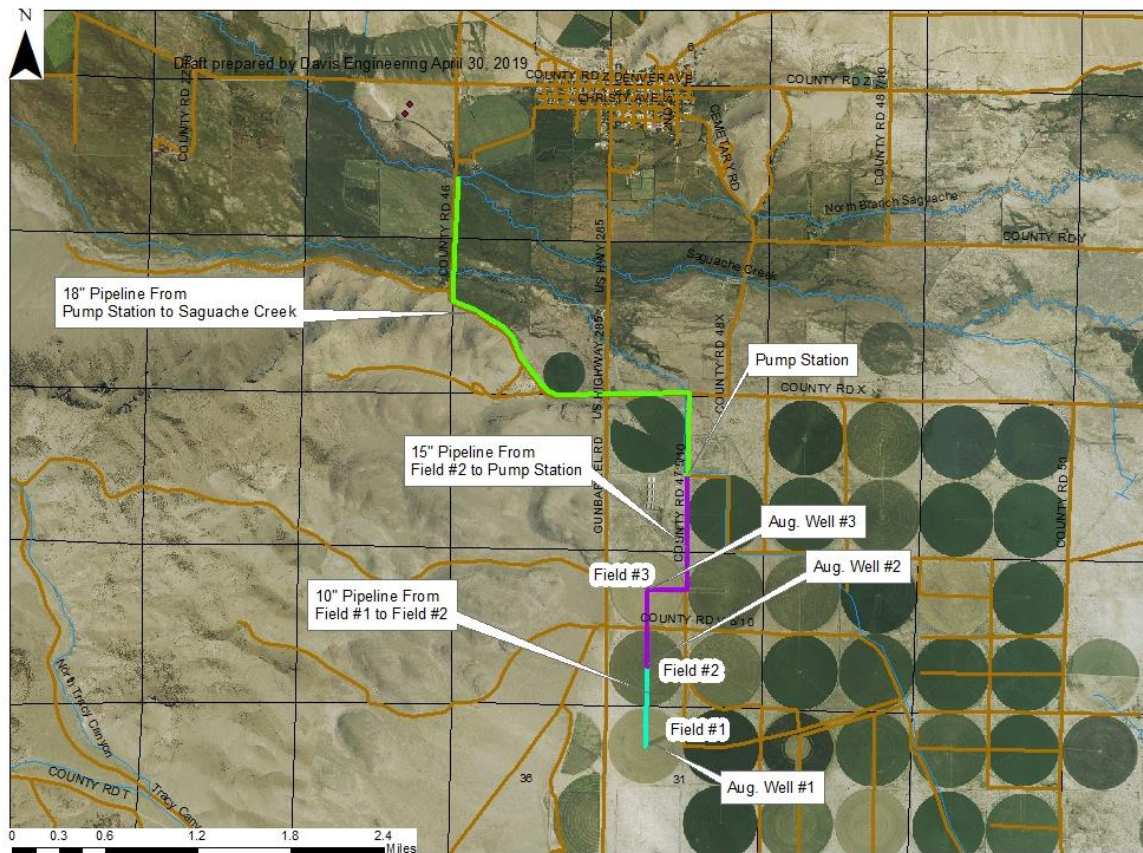
To this point surface water users along Saguache Creek have not been agreeable to Well Injury Payments as a remedy source and, in some cases, they have been hostile to the idea. This problem has been exacerbated by the land trust who holds the easements which cover the majority of the Saguache Creek surface

water rights. The Subdistrict has tried to work with the land trust towards understanding the agreements in the same way, but that has not happened and they will not endorse the idea of Well Injury Payment Agreements.

3.2.2 Alternative 2 – Saguache Pipeline

The second alternative considered is the use of augmentation wells which will pump water directly to Saguache Creek through a pipeline. The augmentation wells will pump the historical consumptive use from irrigated land that has been dried up. The pipeline will consist of approximately 17,000 feet of pipe buried approximately 5 feet deep. Three of the existing irrigation wells will be piped together and pumped to a pumping station which will then pump water to Saguache Creek. The proposed route of the pipeline is shown in Figure 2 below.

Figure 2 – Proposed Saguache Subdistrict Augmentation Wells & Pipeline



The pipeline will be installed within the county road right-of-way. A CDOT Utility permit will have to be obtained to bore under the highway. Initial conversations have taken place with CDOT that indicate this will be a routine process. The Subdistrict has started conversations with the Saguache County

Commissioners to obtain an easement to install the pipeline within the County right-of-way.

3.2.3 Alternative 3 – No Action

No action would result in approximately 200 groundwater irrigation wells being shut off throughout the Saguache Response Area. The economic impact would be devastating to the area, so this is not a preferred alternative.

3.3 Preferred Alternative – Alternative 2

The community has not shown very much interest in Well injury Payments which would be necessary to make Alternative 1 work, therefore, the preferred alternative is the second alternative, presented above. Augmentation wells pumping water to Saguache Creek will provide a guaranteed water source to Saguache Creek to ensure injurious depletions can be remedied by the Subdistrict in time, place, and amount, as required by the Groundwater Rules. The augmentation water will be placed at a point high enough upstream to guarantee water can remedy depletions either downstream or upstream from that point.

4.0 Engineering Analysis for the Preferred Alternative

4.1 Source of Water for the Saguache Pipeline

The source for water for the Saguache Pipeline will come from three separate irrigation wells which have historically irrigated acres under center pivot sprinklers. The irrigation wells pull groundwater from the confined aquifer. The irrigation under the center pivots will cease, acres will be dried up, and the historical consumptive use from those center pivots will then be used to remedy depletions from the Subdistrict wells.

The crops under the irrigated ground which will be dried up have been in an Alfalfa/Small Grain rotation for the last 20 years. It is anticipated that each irrigated area under the center pivots will yield an annual average historical consumptive use of ± 250 ac-ft per pivot. The total annual amount of 750 ac-ft is expected to be available to remedy injurious depletions to Saguache Creek.

4.2 Hydrologic Evaluation

All three wells are drilled to a depth that would classify them as layer 2 wells in the RGDSS model. The RGDSS model identifies layer 2 as a confined aquifer layer. The depths of these three wells range from 174' to 200'. Each of the irrigation wells currently pump ± 900 gpm.

5.0 Project Cost

The estimated cost for the Saguache Pipeline project is \$4,796,010.00. The detailed construction cost estimate for the project is shown in the Table 2 below.

Table 2 – Saguache Pipeline Project Cost Estimate

Item	Units	Quantity	Unit Cost	Total Cost
Sprinkler Quarter Lease with option to buy*	ea.	3	\$650,000	\$1,950,000.00
10"Ø Pipeline (from field #1 to field #2)	l.f.	2,700	\$50	\$135,000.00
15"Ø Pipeline (from field #2 to field #3 to pump station)	l.f.	7,850	\$75	\$588,750.00
18"Ø Pipeline (from pump station to creek crossing at CR46)	l.f.	16,800	\$90	\$1,512,000.00
CDOT Highway Crossing (Pipe Bore)	l.s.	1	\$75,000	\$75,000.00
Pumping Station	l.s.	1	\$150,000	\$150,000.00
Control System	l.s.	1	\$30,000	\$30,000.00
Total Construction Cost (TCC)				\$4,440,750.00
Legal & Engineering Costs @ 3% TCC				\$133,222.50
Contingency @5% TCC				\$222,037.50
Total Project Cost				\$4,796,010.00
Total Project Cost with 1% Origination Fee				\$4,843,970.10

*Cost shown in this estimate is the amount estimated to purchase each Sprinkler Quarter

6.0 Permitting, Change of Water Rights

As stated above all three wells are permitted through the Division of Water Resources and the well permits are included as Attachment 1.

The Subdistrict's plan is to temporarily change the water rights use from irrigation to augmentation through the SWSP process for the first couple of years. After this time, they plan to permanently change the water rights through a water court case.

7.0 Implementation Schedule

The Subdistrict will owe their first depletions on April 1st, 2021, so this project will be constructed as soon as possible. We estimate having the bid documents including construction plans completed by mid-February. It is assumed the project will be bid immediately after that and a contractor will be selected. The Contractor will be selected not only on cost but also on availability and schedule to complete the project. We anticipate construction starting sometime in March 2021 after materials have been obtained for the project.

8.0 Institutional Considerations

To construct the pipeline the following permitting will be required:

- County easements-approval will be required to install the pipeline within the county road right-of-way. The Subdistrict is currently in negotiations with the County Commissioners to obtain easements/approval for the pipeline.
- A CDOT Utility permit will be required to cross the highway with the pipeline. Initial conversations with CDOT have indicated that this project is very routine and obtaining a utility permit should not be a problem.

An agreement between the Subdistrict and the Owner has not been finalized. Multiple conversations with the Owner indicate they are more than willing to work with the Subdistrict because they own other irrigation wells that could potentially be shut off if the Subdistrict does not find a way to remedy injurious depletions.

9.0 Social and Environmental Impacts of the Project

The environmental impacts of installing the pipeline itself are very minimal. If the Subdistrict does not find a way to replace injurious depletions and the project does not move forward, then environmental impact might be very significant if wells are turned off. Significant portions of historically irrigated land will be dried up.

The social impact for majority of the area including the Subdistrict members will be positive. It will allow irrigation wells to continue to withdraw groundwater while also replacing any injurious depletions owed to senior surface water rights from these continued groundwater withdrawals. There is a portion of the community who has not been willing to work with the Subdistrict who might view this project as a negative impact to area.

10.0 Financial feasibility

10.1 Financial Repayment

The Subdistrict is applying for a loan in the amount of \$4,843,970.10 from the Colorado Water Conservation Board Water Project Loan Program with a 30-year repayment period and an interest rate of not more than 1.10%. The Subdistrict currently consists of 181 wells that withdraw an average of 33,400 acre-feet of water. The Subdistrict assess a Groundwater Withdrawal Fee on each acre-foot withdrawn from Subdistrict Wells. The Subdistrict will fund the Saguache Pipeline through its Groundwater Withdrawal Fees. In 2020, the assessed Groundwater Withdrawal Fees were \$14.25 per acre-foot applied through sprinkler irrigation and \$10.30 per acre-foot applied through flood irrigation. The total Groundwater Withdrawal Fees assessed in 2020 were \$287,000. Additional revenues from wells at Russell Lakes State Wildlife Area, which need to contract with the Subdistrict in order to continue operating, are anticipated to bring an additional \$68,500 in Groundwater Withdrawal Fees. The Subdistrict is currently sustainable under the Groundwater Rules, and it is anticipated that groundwater withdrawals will continue to

fluctuate year to year, near historic values. The estimated annual payment of \$190,448.64 would enable the Subdistrict to potentially lower their fees in the future and reduce the costs to Subdistrict Members. The Schedule of Revenue and Expenditures is included as Attachment 2.

10.2 Credit Worthiness

The Subdistrict is entitled to raise funds by assessment of reasonable Annual Service and User Fees to carry out the goals and overall objective set forth in the Plan of Water Management. The Subdistrict intends to finance its costs by raising sufficient revenue, in a fair and equitable manner, through the imposition of Annual Service and User Fees. Annual Service and User Fees will consist of two components, an annual Administrative Fee and an annual Groundwater Withdrawal Fee. Each component will be evaluated annually, and if appropriate, will be adjusted by the Board of Managers as required by the Plan of Water Management and in response to the demands of the Annual Replacement Plan. The total annual Groundwater Withdrawal Fee must be limited to the amount shown by specific items in the ensuing annual budget as required to provide sufficient revenue for the Subdistrict's operations, including: protection of senior surface water rights; funds to support a portfolio of water and/or a fund to assure the remedy of Post-Plan Injurious Stream Depletions; permanent retirement and/or annual fallowing of lands; establishment of a reasonable reserve fund; achievement and maintenance of a Sustainable Water Supply; and, any necessary infrastructure improvements.

As a subdistrict of the Rio Grande Water Conservation District, the Subdistrict's finances are included in those of the District. Attachment 3, shows the last three years of District Audit Reports.

11.0 Conclusions and Recommendations

1. The Saguache pipeline will assist the Saguache Subdistrict in remedying injurious depletions owed to senior surface water users on Saguache Creek from groundwater withdrawals in the Subdistrict. The change of water right for the augmentation wells will result in a total of ± 750 ac-ft based on the historical consumptive use of the irrigated areas.
2. The Saguache pipeline is feasible from both a financial and engineering viewpoint.
3. The Saguache Subdistrict has the legal ability to budget the annual payment for the loan into their annual Groundwater Withdrawal Fee.



Rio Grande Water Conservation District

8805 Independence Way • Alamosa, Colorado 81101

Phone: (719) 589-6301 • Fax: (719) 992-2026

Protecting & Conserving San Luis Valley Water

February 1, 2021

Colorado Water Conservation Board

Attn: Matt Stearns

1313 Sherman Street, Room 718

Denver, CO 80203

RE: Saguache Pipeline Loan Application

The Office of the State Engineer has Promulgated Rules and Regulations Governing the Withdrawal of Groundwater in Water Division 3, Case No. 15CW3024. These Groundwater Rules require well users in Water Division 3 to remedy injurious stream depletions caused by well withdrawals. Starting April 1st, 2021, the Saguache Subdistrict will be required to replace injurious stream depletions from groundwater wells that are part of the Subdistrict. If the Subdistrict is not able to replace the injurious stream depletions, then approximately 200 irrigation wells will be forced to shut off until the depletions can be remedied.

The Subdistrict is requesting a loan in the amount of \$4,843,970.10 to construct a pipeline which would carry augmentation water from three wells to Saguache Creek where the injurious depletions are occurring. Transmitted with this letter is a feasibility study which provides information about the Subdistrict and the Saguache Pipeline Project in accordance with CWCB guidelines.

If you have any questions about this project please contact Clinton Phillips of Davis Engineering Services (719)589-3004.

Sincerely,

A handwritten signature in black ink, appearing to read "David Schmittel", with a long horizontal flourish extending to the right.

David Schmittel

President Subdistrict No. 5



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

Water Project Loan Program

Projects financed by the Water Project Loan Program must align with the goals identified in Colorado's Water Plan and its measurable objectives.

Application Type	
<input type="checkbox"/> Prequalification (Attach 3 years of financial statements) <input checked="" type="checkbox"/> Loan Approval (Attach Loan Feasibility Study)	
Agency/Company Information	
Company / Borrower Name: Rio Grande Water Conservation District, Subdistrict No. 5	
Authorized Agent & Title: Chris Ivers, Program Manager	
Address: 8805 Independence Way, Alamosa, CO 81101	
Phone: (719) 589-6301	Email: chris@rgwcd.org
Organization Type: <input type="checkbox"/> Ditch Co, <input type="checkbox"/> District, <input type="checkbox"/> Municipality <input checked="" type="checkbox"/> other: Water Conservation District	Incorporated? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
County: Alamosa	Number of Shares/Taps: N/A
Water District: WD 26 Saguache Creek	Avg. Water Diverted/Yr _____ acre-feet
Number of Shareholders/Customers Served:	Current Assessment per Share \$ _____ (Ditch Co)
Federal ID Number:	Average monthly water bill \$ _____ (Municipality)
Contact Information	
Project Representative: Chris Ivers	
Phone: () (719) 588-6301	Email: chris@rgwcd.org
Engineer: Clinton Phillips	
Phone: () (719) 589-3004	Email: clinton@daveng.com
Attorney: Peter Ampe	
Phone: () (303) 296-8100	Email: peterampe@hillandrobbsins.com
Project Information	
Project Name: Saguache Pipeline	
Brief Description of Project: (Attach separate sheets if needed)	
see attachment	
Project Start Date(s) Design: 1/1/2021 Construction: 3/15/2021	
General Location: (Attach Map of Area)	
Northwestern portion of the San Luis Valley, Saguache County, see attached map	
Project Costs - Round to the nearest thousand	
Estimated Engineering Costs: \$50,000	Estimated Construction Costs: \$4,441,000
Other Costs (Describe Above):	Estimated Total Project Costs: \$4,796,000
Requested Loan Amount: \$4,844,000	Requested Loan Term (10, 20, or 30 years): 30 Years
Signature	
Chris Ivers Program Manager Signature / Title	Return to: Finance Section Attn: Matt Stearns 1313 Sherman St #718 Denver, CO 80203 Ph. 303/866.3441 e-mail: matthew.stearns@state.co.us

Project Description

Starting April 1st, 2021, the Saguache Subdistrict will be required to replace injurious stream depletions from groundwater wells that are part of the Subdistrict. If the Subdistrict is unable to replace these injurious stream depletions, then approximately 200 irrigation wells will be forced to shut off until the depletions can be remedied.

The Subdistrict is requesting a loan in the amount of \$4,843,970.10 to construct a pipeline which would carry augmentation water from three wells to Saguache Creek at the time, location and amount which the injurious depletions are occurring. A portion of land which was previously irrigated by the wells will be dried up and the historical consumptive use amount of ± 750 ac-ft will then be changed in water court to augmentation use. This water can then be pumped to the creek at time and place as determined by the RGDSS Saguache Response Function.

The Subdistrict will assess its members an annual Groundwater Withdrawal Fee (per ac-ft) in an amount sufficient enough to cover both the loan and interest payments and the operation and maintenance costs for the project. The Subdistrict is required to prepare and approve an annual budget. The Board of Managers will set the annual Groundwater Withdrawal Fee rate during the budget process at a rate required to cover the loan and any operation and maintenance costs.

Saucahe Subdistrict_Boundary

Attachment 1 – Well Permits

THIS FORM MUST BE
SUBMITTED PRIOR TO
THE EXPIRATION OF THE
PERMIT. TYPE OR
PRINT IN BLACK INK.
COPY OF ACCEPTED
STATEMENT MAILED
ON REQUEST.

COLORADO DIVISION OF WATER RESOURCES

300 Columbine Bldg., 1845 Sherman St.
Denver, Colorado 80203

STATE OF COLORADO

COUNTY OF Rio Grande

SS.

AFFIDAVIT

RECEIVED

MAY 19 75

WATER RESOURCES
STATE ENGINEER
COLORADO

x STATEMENT OF BENEFICIAL USE OF GROUND WATER
AMENDMENT OF EXISTING RECORD

RECEIVED
JUL 25 75

WATER RESOURCES
STATE ENGINEER
COLORADO

R20210 | 950
174 | 480

PERMIT NUMBER R 20210

LOCATION OF WELL

THE AFFIANT(S) Oliver Gould and Faye Gould
whose mailing 170 William R. Bartlett
address is P. O. Box 312

City Monte Vista, Colorado 81144
(STATE) (ZIP)

County Saguache
XX of the 30 Section
Twp. 44 N, Rng. 8 E, N.M. P.M.
(N OR S) (E OR W)

being duly sworn upon oath, deposes and says that he (they) is (are) the owner(s) of the well described hereon; the well is located as described above, at distances of 1320 feet from the North section line and 1320 feet from the West section line; water from this well was first applied to a beneficial use for the purpose(s) described herein on the 18th day of June, 19 73; the maximum sustained pumping rate of the well is 950 gallons per minute, the pumping rate claimed hereby is 950 gallons per minute; the total depth of the well is 174 feet; the average annual amount of water to be diverted is 480 acre-feet; for which claim is hereby made for Irrigation

purpose(s); the legal description of the land on which the water from this well is used is NW 1/4 30-44-8, Saguache County, Colorado which totals

160 acres and which is illustrated on the map on the reverse side of this form; that this well was completed in compliance with the permit approved therefor; this statement of beneficial use of ground water is filed in compliance with law; he (they) has (have) read the statements made hereon; knows the content thereof; and that the same are true of his (their) knowledge.

OLIVER GOULD AND FAYE GOULD

Signature(s) BY William R. Bartlett Attorney

Subscribed and sworn to before me on this 14th day of May, 19 75

My Commission expires: 1/14/79

(SEAL) Shirley M. Danner
NOTARY PUBLIC

ACCEPTED FOR FILING BY THE STATE ENGINEER OF COLORADO
PURSUANT TO THE FOLLOWING CONDITIONS:

THAT THOSE CONDITIONS OF APPROVAL AS STATED ON THE
PERMIT ARE COMPLIED WITH.

FOR OFFICE USE ONLY

Court Case No. N-1902 # 21
Prior. 3 Mo. 55 Day 55 Yr. 55
Div. 3 City. 55
Sec. 6 1/4 1/4 1/4
Well Use 6
Dist. 26 Basin Man. Dis.

JUL 30 1975

STATE ENGINEER

BY

Bruce E. DeBune

Well drilled by _____ Lic. No. _____

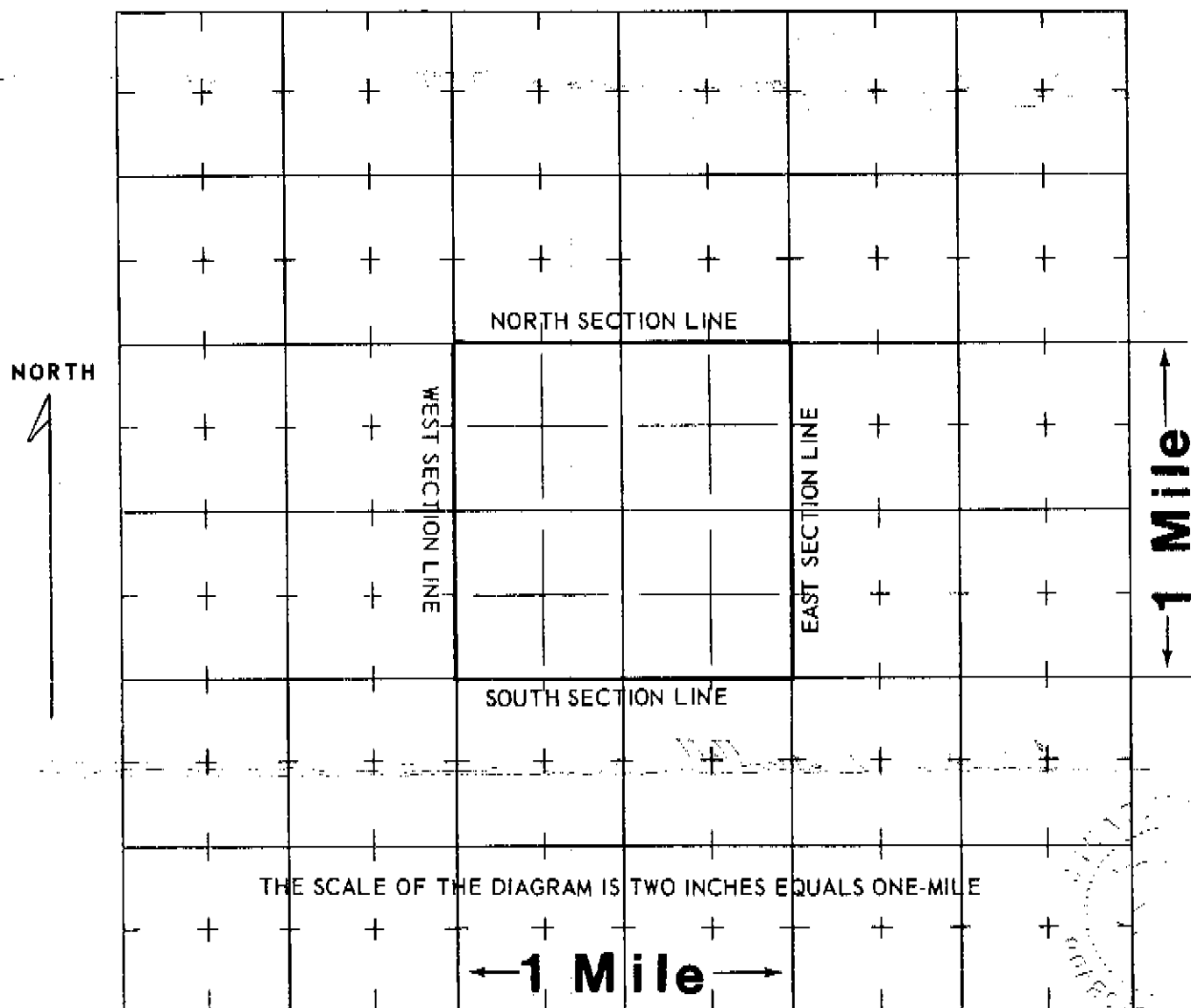
Pump installed by _____ Lic. No. _____

Meter Serial No. _____ ☐ Flow Meter Date Installed _____

Owner of land on which
water is being used _____

**THE LOCATION OF THE WELL MUST BE SHOWN AND THE AREA ON WHICH THE WATER IS USED
MUST BE SHADED OR CROSS-HATCHED ON THE DIAGRAM BELOW.**

This diagram represents nine (9) sections. Use the **CENTER SQUARE**
(one section) to indicate the location of the well, if possible.



WATER EQUIVALENTS TABLE (Rounded Figures)

An acre-foot covers 1 acre of land 1 foot deep.

1 cubic foot per second (cfs) . . . 449 gallons per minute (gpm).

1 acre-foot . . . 43,560 cubic feet . . . 325,900 gallons.

1,000 gpm pumped continuously for one day produces 4.42 acre-feet.

100 gpm pumped continuously for one year produces 160 acre-feet.

COLORADO DIVISION OF WATER RESOURCES

101 Columbine Bldg., 1845 Sherman St.
Denver, Colorado 80203THIS FORM MUST BE SUBMITTED
WITHIN 60 DAYS OF COMPLETION
OF THE WORK DESCRIBED HERE-
ON. TYPE OR PRINT IN BLACK
INK.

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER R 20210-RF

RECEIVED

JUL 09 '73

WATER RESOURCES
STATE ENGINEER
COLORADOWELL OWNER OLIVER & FAYE GOULDCenter 2 of the N.W. $\frac{1}{4}$ of Sec. 30* William R. BartlettADDRESS P.O. Box 312 Monte Vista Colo.T. 14 N, R. 8 E, N.M. P.M.DATE COMPLETED June 1, 19 73

HOLE DIAMETER

20 in. from 0 to 74 ft. in. from to ft. in. from to ft.

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	2	Top Soil	
2	20	Packed gravel	
20	33	Gravel and clay	
33	36	Water gravel	
36	68	Gravel and clay	
68	71	Water gravel	
71	126	Rocks and clay	
126	128	Water gravel	
128	167	Rocks and clay	
167	169	Water gravel	
169	174	Rocks and clay	
TOTAL DEPTH <u>174 ft.</u>			

Use additional pages necessary to complete log.

CASING RECORD: Plain Casing

Size 16 & kind $\frac{1}{4}$ " from 0 to 32 ft.Size & kind from to ft.Size & kind from to ft.

Perforated Casing

Size 16 & kind $\frac{1}{4}$ " from 32 to 174 ft.Size & kind from to ft.Size & kind from to ft.

GROUTING RECORD

Material Intervals Placement Method GRAVEL PACK: Size $1 \frac{1}{2}$ "Interval 0 to 176 174

TEST DATA

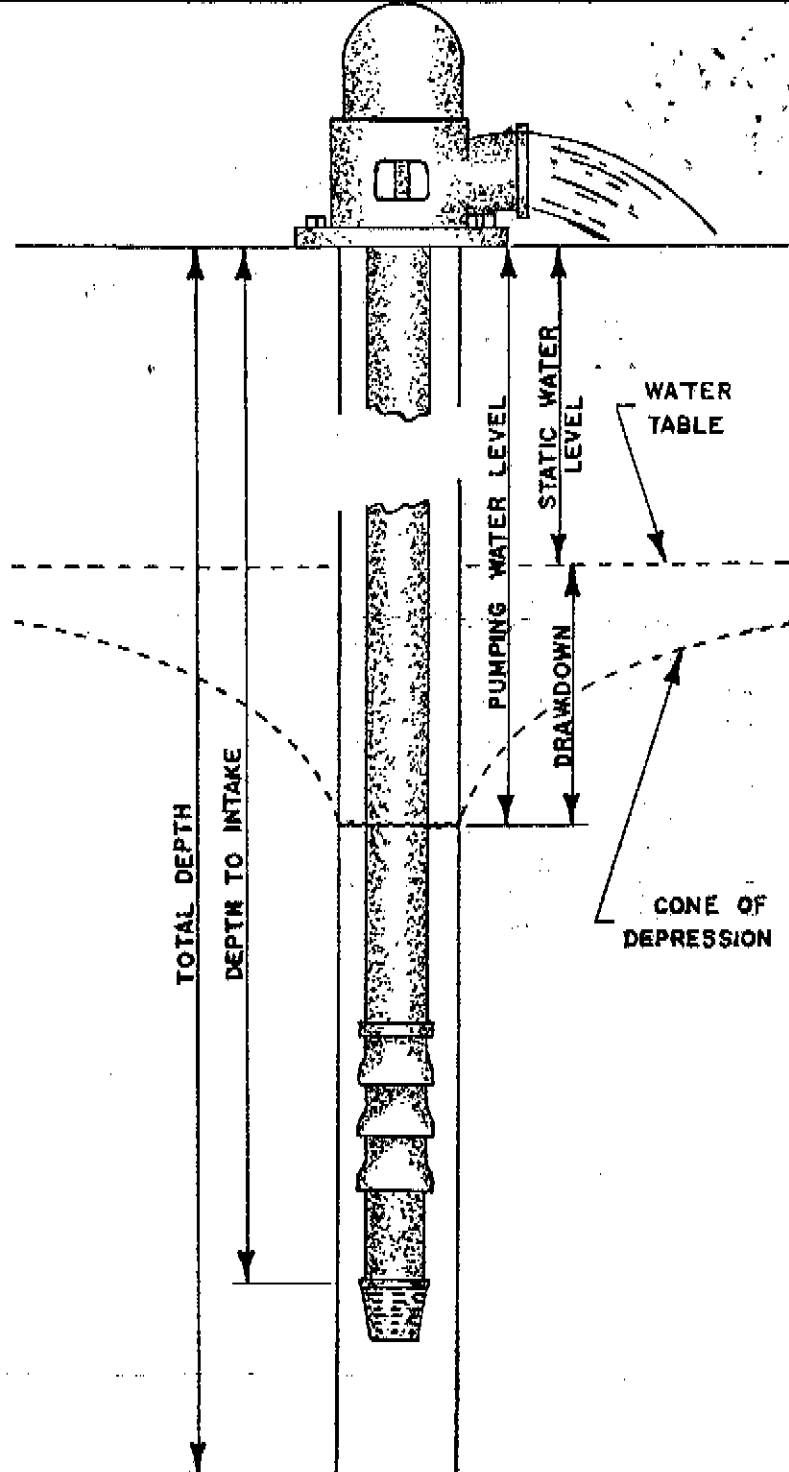
Date Tested June 5,, 19 73Static Water Level Prior to Test 61 ft.Type of Test Pump 8" turbineLength of Test 24 hrsSustained Yield (Metered) 950 gpm at 1950 R.P.M.Final Pumping Water Level 79 ft.

PUMP INSTALLATION REPORT

Pump Make Peerless
 Type _____
 Powered by G.E. Elec. Motor HP 75
 Pump Serial No. _____
 Motor Serial No. BJJ509607
 Date Installed June 18, 1973
 Pump Intake Depth 130
 Remarks _____

WELL TEST DATA WITH PERMANENT PUMP

Date Tested June 5, 1973
 Static Water Level Prior to Test 61 ft.
 Length of Test ~~24~~ 24 Hours
 Sustained yield (Metered) 950 GPM
 Pumping Water Level 79 ft.
 Remarks water level will drop when water
table goes down



CONTRACTORS STATEMENT

The undersigned, being duly sworn upon oath, deposes and says that he is the contractor of the well or pump installation described hereon; that he has read the statement made hereon; knows the content thereof, and that the same is true of his own knowledge.

Signature M. A. Garner License No. 174

State of Colorado, County of Saguache SS

Subscribed and sworn to before me this 6th day of July, 1973.

My Commission expires: _____, 19____.

Notary Public Deputy County Clerk: Davis Mondragon

FORM TO BE MADE OUT IN QUADRUPPLICATE: WHITE FORM must be an original copy on both sides and signed. WHITE AND GREEN copies must be filed with the State Engineer. PINK COPY is for the Owner and YELLOW COPY is for the Driller.

THIS FORM MUST BE
SUBMITTED PRIOR TO
THE EXPIRATION OF THE
PERMIT. TYPE OR
PRINT IN BLACK INK.
COPY OF ACCEPTED
STATEMENT MAILED
ON REQUEST.

COLORADO DIVISION OF WATER RESOURCES

300 Columbine Bldg., 1845 Sherman St.
Denver, Colorado 80203

STATE OF COLORADO

COUNTY OF Rio Grande

SS.

AFFIDAVIT

RECEIVED

MAY 19 '75

☒ STATEMENT OF BENEFICIAL USE OF GROUND WATER

AMENDMENT OF EXISTING RECORD

RECEIVED

JUL 25 '75

WATER RESOURCES
STATE ENGINEER
GOLD

R20228 1000
176 480

PERMIT NUMBER R 20228

LOCATION OF WELL

THE AFFIANT(S) Oliver Gould and Faye Gould
whose mailing c/o William R. Bartlett
address is P. O. Box 312

City Monte Vista, Colorado 81144

County Saguache

Center ~~XXX~~ of the SW 1/4 Section 30

Twp. 44 N (N OR S), Rng. 8 E (E OR W), N.M. P.M.

being duly sworn upon oath, deposes and says that he (they) is (are) the owner(s) of the well described hereon; the well is

located as described above, at distances of 1320 feet from the South section line and 1320 feet from the

West section line; water from this well was first applied to a beneficial use for the purpose(s) described herein on the 8th

day of June, 19 73; the maximum sustained pumping rate of the well is 1000 gallons per minute, the pumping

rate claimed hereby is 1000 gallons per minute; the total depth of the well is 176 feet; the average annual amount

of water to be diverted is 480 acre-feet; for which claim is hereby made for Irrigation

purpose(s); the legal description of the land on which the water from this well is used is

SW 1/4 30-44-8, Saguache County, Colorado which totals

160 acres and which is illustrated on the map on the reverse side of this form; that this well was completed in compliance with the permit approved therefor; this statement of beneficial use of ground water is filed in compliance with law; he (they) has (have) read the statements made hereon; knows the content thereof; and that the same are true of his (their) knowledge.

OLIVER GOULD AND FAYE GOULD

Signature(s) BY William R. Bartlett Attorney

Subscribed and sworn to before me on this 10th day of May, 19 75

My Commission expires: 1/14/79

Shirley M. Davis
NOTARY PUBLIC

ACCEPTED FOR FILING BY THE STATE ENGINEER OF COLORADO
PURSUANT TO THE FOLLOWING CONDITIONS:

THAT THOSE CONDITIONS OF APPROVAL AS STATED ON THE
PERMIT ARE COMPLIED WITH.

FOR OFFICE USE ONLY

Court Case No. W-1902 # 17

Prior. Mo. Day Yr.

Div. 3 City. 55

Sec. 6 26 26 26

Well Use 6

Dist. 26 Basin Mon. Dis.

JUL 30 1975

DATE

J. J. Snipes
STATE ENGINEER

Bruce E. DeBruine
BY

Well drilled by _____ Lic. No. _____

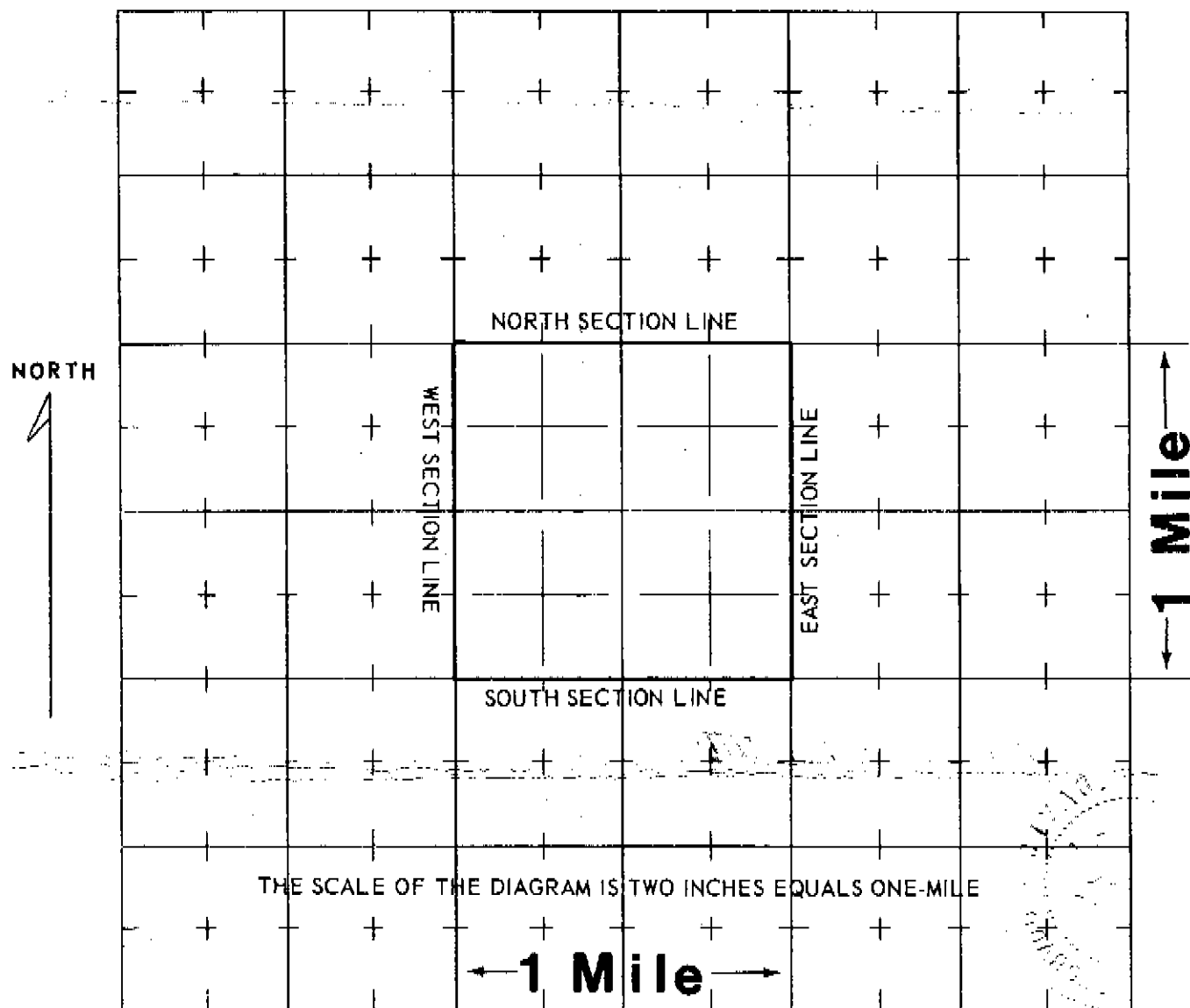
Pump installed by _____ Lic. No. _____

Meter Serial No. _____ ☐ Flow Meter Date Installed _____

Owner of land on which
water is being used _____

**THE LOCATION OF THE WELL MUST BE SHOWN AND THE AREA ON WHICH THE WATER IS USED
MUST BE SHADED OR CROSS-HATCHED ON THE DIAGRAM BELOW.**

This diagram represents nine (9) sections. Use the **CENTER SQUARE**
(one section) to indicate the location of the well, if possible.



WATER EQUIVALENTS TABLE (Rounded Figures)

An acre-foot covers 1 acre of land 1 foot deep.

1 cubic foot per second (cfs) . . . 449 gallons per minute (gpm).

1 acre-foot . . . 43,560 cubic feet . . . 325,900 gallons.

1,000 gpm pumped continuously for one day produces 4.42 acre-feet.

100 gpm pumped continuously for one year produces 160 acre-feet.

COLORADO DIVISION OF WATER RESOURCES

101 Columbine Bldg., 1845 Sherman St.
Denver, Colorado 80203THIS FORM MUST BE SUBMITTED
WITHIN 60 DAYS OF COMPLETION
OF THE WORK DESCRIBED HERE-
ON. TYPE OR PRINT IN BLACK
INK.

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER R20228-RP

RECEIVED

JUL 09 '73

WATER RESOURCES
STATE ENGINEER
GOLD.WELL OWNER Oliver & Faye Gould
% William Bartlett
ADDRESS P.O. Box 312 Monte Vista, Colo.Center 1/4 of the 2 W 1/4 of Sec. 30T. 14 N. R. 8 N.M. P.M.DATE COMPLETED May 8, 19 73

HOLE DIAMETER

20 in. from 0 to 176 ft. in. from to ft. in. from to ft.

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	1	Top Soil	
1	19	Packed gravel	
19	25	Gravil and clay	
25	30	Water gravel	
30	68	Gravil and clay	
68	72	Water gravel	
72	125	Rocks and clay	
125	127	Water gravel	
127	165	Rocks and clay	
165	168	Water gravel	
168	176	Rocks and clay	

TOTAL DEPTH 176ft.

Use additional pages necessary to complete log.

CASING RECORD: Plain Casing

Size 16 & kind 205 from 0 to 30 ft.Size & kind from to ft.Size & kind from to ft.

Perforated Casing

Size 16 & kind 205 from 30 to 176 ft.Size & kind from to ft.Size & kind from to ft.

GROUTING RECORD

Material Intervals Placement Method GRAVEL PACK: Size 0 to 1 1/2 in"Interval 0 to 176

TEST DATA

Date Tested May 22, 1973Static Water Level Prior to Test 30 ft.Type of Test Pump 8" turbineLength of Test 36 hrs.Sustained Yield (Metered) 1000 at 2000 R.P.M.Final Pumping Water Level 64'

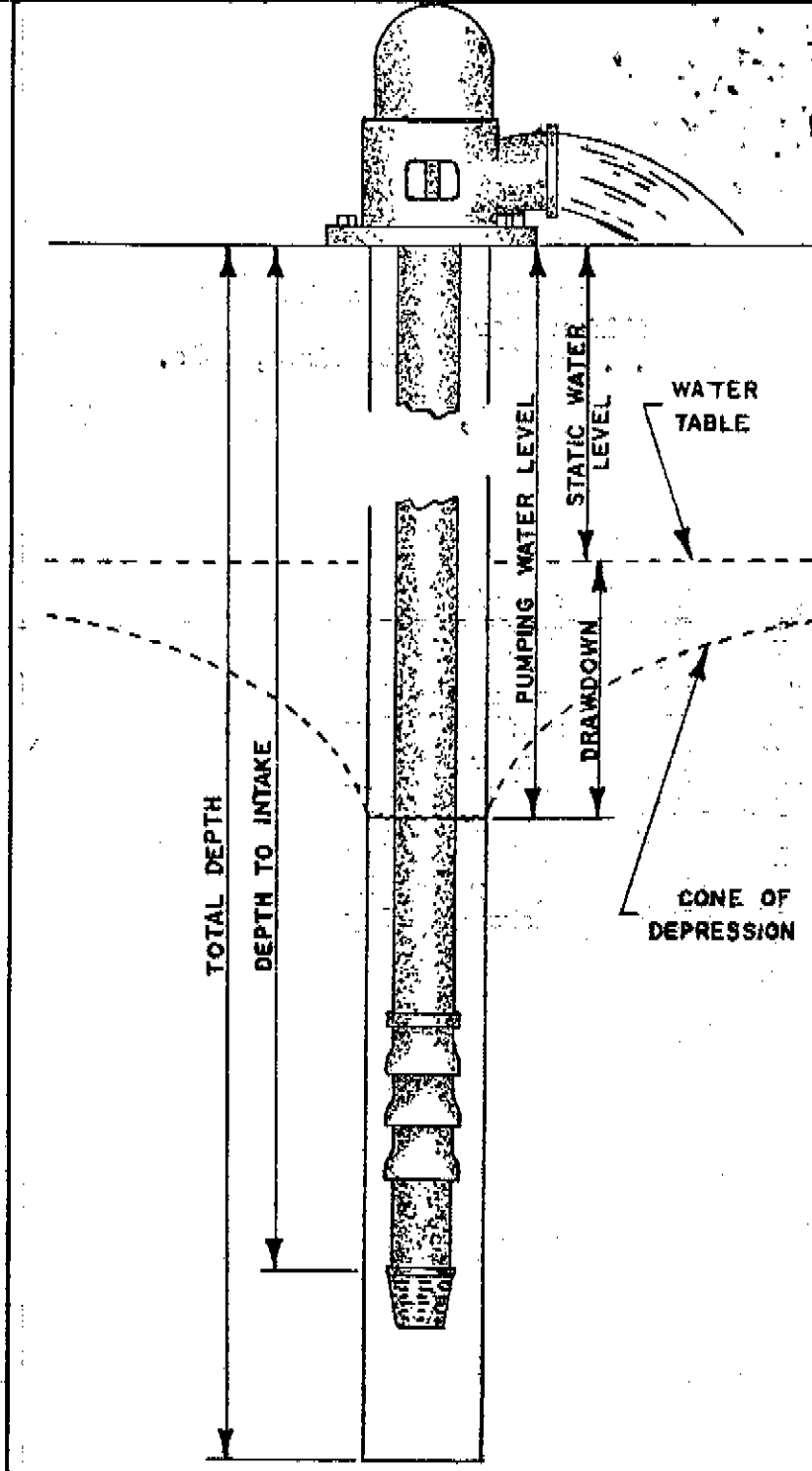
PUMP INSTALLATION REPORT

Pump Make Frederick
 Type _____
 Powered by G.E. Elec. Motor HP 15
 Pump Serial No. 0100101
 Motor Serial No. 0100101
 Date Installed 7-18-73
 Pump Intake Depth 100
 Remarks _____

WELL TEST DATA WITH PERMANENT PUMP

Date Tested May 22, 1973
 Static Water Level Prior to Test 10 ft.
 Length of Test 15 ~~hours~~ 36 Hours
 Sustained yield (Metered) 1000 GPM
 Pumping Water Level 40 ft.

Remarks Water level in well goes down, water goes down.



CONTRACTORS STATEMENT

The undersigned, being duly sworn upon oath, deposes and says that he is the contractor of the well or pump installation described hereon; that he has read the statement made hereon; knows the content thereof, and that the same is true of his own knowledge.

Signature M. A. Gardner License No. 444

State of Colorado, County of Saguache SS

Subscribed and sworn to before me this 15 day of July, 19 73.

My Commission expires: _____, 19 ____.

Notary Public Deputy County Clerk: David Mondragon

Well drilled by Cooper Drilling Co.

Lic. No. 431

Pump installed by McAninch & Beiriger

Lic. No. 32

Meter Serial No. _____

☐ Flow Meter

☐ Electric Meter

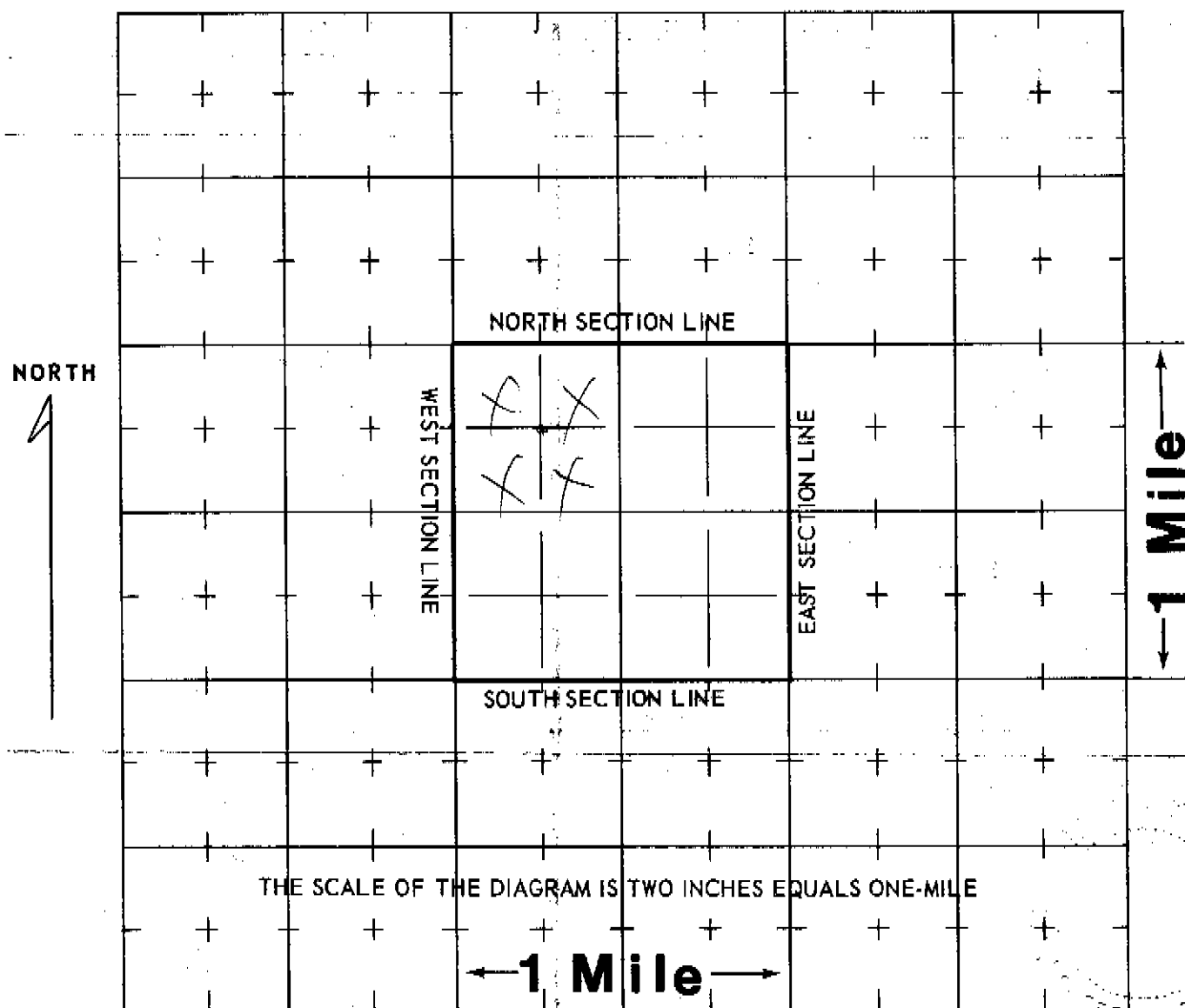
☐ Fuel Meter

Owner of land on which
water is being used _____

Key Development & Investment Inc.

THE LOCATION OF THE WELL MUST BE SHOWN AND THE AREA ON WHICH THE WATER IS USED
MUST BE SHADED OR CROSS-HATCHED ON THE DIAGRAM BELOW.

This diagram represents nine (9) sections. Use the **CENTER SQUARE**
(one section) to indicate the location of the well, if possible.



WATER EQUIVALENTS TABLE (Rounded Figures)

An acre-foot covers 1 acre of land 1 foot deep.

1 cubic foot per second (cfs) . . . 449 gallons per minute (gpm).

1 acre-foot . . . 43,560 cubic feet . . . 325,900 gallons.

1,000 gpm pumped continuously for one day produces 4.42 acre-feet.

100 gpm pumped continuously for one year produces 160 acre-feet.

IN 74W

na

COLORADO DIVISION OF WATER RESOURCES

101 Columbine Bldg., 1845 Sherman St.
Denver, Colorado 80203

RECEIVED

FEB 14 '74

THIS FORM MUST BE SUBMITTED
WITHIN 60 DAYS OF COMPLETION
OF THE WORK DESCRIBED HERE-
ON. TYPE OR PRINT IN BLACK
INK.

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER

~~016857-F~~
018450-FWATER RESOURCES
STATE ENGINEER
BOLD.WELL OWNER KEY DEVELOPMENT & INVESTMENT NW ¼ of the NW ¼ of Sec. 31ADDRESS Box 376 Lagache Colorado 81144 T. 44 N. R. 8 E. NM P.M.DATE COMPLETED Dec 29, 1973

HOLE DIAMETER

32 in. from 0 to _____ ft.

_____ in. from _____ to _____ ft.

_____ in. from _____ to _____ ft.

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	6	Top soil	
6	34	clay	
34	70	limestone	
70	75	clay	
75	135	Gravel	✓
135	138	clay	
138	162	Gravel	✓
162	165	Blue clay	
TOTAL DEPTH <u>165</u>			

Use additional pages necessary to complete log.

CASING RECORD: Plain Casing

Size 16 & kind STEEL from 0 to 40 ft.

Size _____ & kind _____ from _____ to _____ ft.

Size _____ & kind _____ from _____ to _____ ft.

Perforated Casing

Size 16 & kind STEEL from 40 to 165 ft.

Size _____ & kind _____ from _____ to _____ ft.

Size _____ & kind _____ from _____ to _____ ft.

GROUTING RECORD

Material _____

Intervals _____

Placement Method _____

GRAVEL PACK: Size 1/4 by 1/2Interval 0-165TEST DATA NONE

Date Tested _____, 19 _____

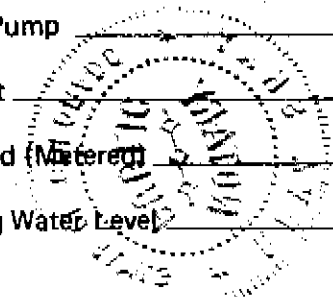
Static Water Level Prior to Test 10 ft.

Type of Test Pump _____

Length of Test _____

Sustained Yield (Meters) _____

Final Pumping Water Level _____

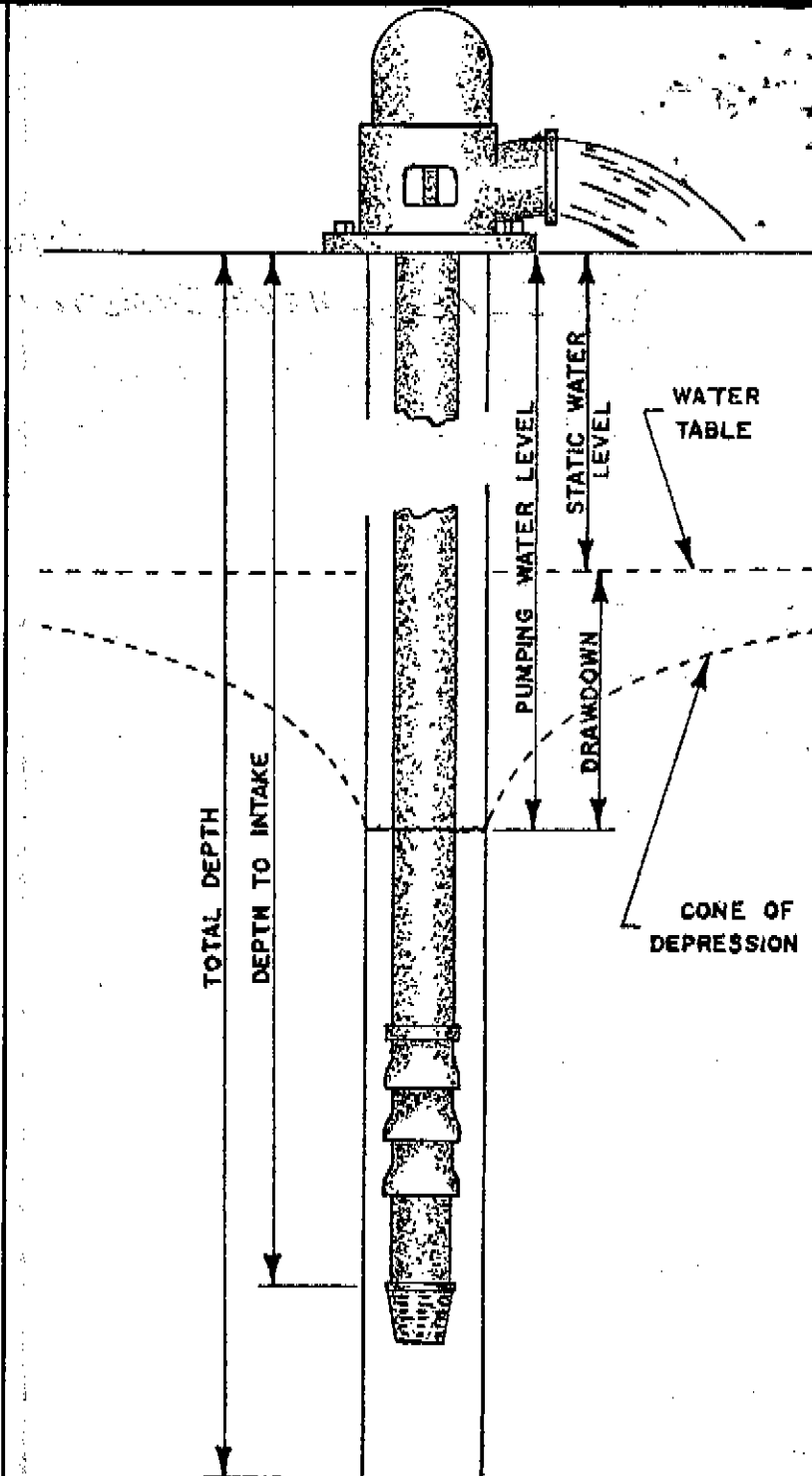


PUMP INSTALLATION REPORT

Pump Make _____
 Type _____
 Powered by _____ HP _____
 Pump Serial No. _____
 Motor Serial No. _____
 Date Installed _____
 Pump Intake Depth _____
 Remarks _____

WELL TEST DATA WITH PERMANENT PUMP

Date Tested _____
 Static Water Level Prior to Test 10.
 Length of Test _____ Hours
 Sustained yield (Metered) _____ GPM
 Pumping Water Level _____
 Remarks _____



CONTRACTORS STATEMENT

The undersigned, being duly sworn upon oath, deposes and says that he is the contractor of the well or pump installation described hereon; that he has read the statement made hereon; knows the content thereof, and that the same is true of his own knowledge.

Signature James G. Cooper License No. 4881

State of Colorado, County of Rio Grande SS

Subscribed and sworn to before me this 13 day of February, 1974.

My Commission expires Sept. 15, 1975.

Notary Public: Kenia Shan

RESOLUTION OF THE
SPECIAL IMPROVEMENT DISTRICT NO. 5 OF THE RIO GRANDE WATER
CONSERVATION DISTRICT
(Establishing A Water Activity Enterprise)

R E C I T A L S

WHEREAS, the Special Improvement District No. 5 of the Rio Grande Water Conservation District (“Subdistrict No. 5”) was created pursuant to section 37-48-108, C.R.S., and pursuant to section 37-48-101.3(1), C.R.S., is a body corporate under the laws of Colorado; and

WHEREAS, Subdistrict No. 5 was formed for the purpose of designing and implementing a cooperative plan for water management to assure the protection of senior surface water rights and promote the maximum beneficial and sustainable use of water resources; and

WHEREAS, Subdistrict No. 5 is authorized by section 37-48-149, C.R.S., to issue improvement district bonds to be paid out of special assessments made against all lands in the subdistrict benefited by the improvements financed by the bond proceeds; and

WHEREAS, Subdistrict No. 5, as a local government entity is authorized to establish a water enterprise pursuant to Article 45.1 of Title 37 of the Colorado Revised Statutes; and

WHEREAS, Colorado Constitution Art. X, Sec. 20 includes requirements with respect to financial activities of Subdistrict No. 5 except, generally, insofar as said activities take place within enterprises owned and operated by Subdistrict No. 5; and

WHEREAS, pursuant to the provisions of Title 37, Article 45.1, Colorado Revised Statutes (the “Water Activity Law”), state and local governmental entities which have their own bonding capacity under applicable law are authorized: (i) to establish or continue to maintain water activity enterprises for the purpose of pursuing or continuing water activities, which includes the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange, or discharge of water and includes the acquisition of water or water rights; and (ii) to issue or reissue bonds, notes, or other obligations payable from the revenues derived or to be derived from the function, service, benefits, or facility or from any other available funds of the enterprise, the terms and conditions of such bonds or other obligations to be as set forth in the resolution authorizing the same and, as nearly as practicable, as provided in Part 4 of Article 35 of Title 31, C.R.S., relating to water revenue bonds; and

WHEREAS, in order to qualify as an activity enterprise under the Water Activity Law, the enterprise must consist of a government water activity business owned by a governmental entity (such as Subdistrict No. 5), which enterprise receives under 10% of its annual revenues in grants from all Colorado state and local governments combined, and which is authorized to issue its own revenue bonds; and

WHEREAS, it is the intent of Subdistrict No. 5 to formally establish the “Special Improvement District No. 5 of the Rio Grande Water Conservation District Water Activity Enterprise” (“Enterprise”) under the Water Activity Law; and

WHEREAS, Subdistrict No. 5 desires that the Enterprise be qualified as an enterprise and a separate government-owned business as clarified by the Colorado Supreme Court decision in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995); and

WHEREAS, the Board of Managers finds that the provision of Subdistrict services through an enterprise will contribute to the health, safety, welfare, and prosperity of Subdistrict No. 5 and its landowners;

R E S O L U T I O N

NOW, THEREFORE, be it resolved by the Board of Managers, as follows:

1. Establishment of Enterprise. The Special Improvement District No. 5 of the Rio Grande Water Conservation District Water Activity Enterprise is hereby established by Subdistrict No. 5 pursuant to the Water Activity Law subject to the approval of the Board of Directors of the Rio Grande Water Conservation District.

Pursuant to section 37-45.1-103(1), C.R.S., the Enterprise is established by Subdistrict No. 5 “for the purpose of pursuing . . . water activities, including water acquisition or water project or facility activities, including the construction, operation, repair, and replacement of water . . . facilities.” The Enterprise will operate as a business as the term is commonly used or judicially defined.

The Enterprise will consist of the business of:

(a) Operations, Services, and Programs: all of the operations, services, and programs necessary or advisable to further the goals of the Plan for Water Management and protect vested senior surface water rights; and

(b) Facilities: all real and personal property acquired, operated, and held in the name of Subdistrict No. 5, through the Rio Grande Water Conservation District, as may be necessary to carry out the operations, services, and programs necessary or advisable to further the goals of the Plan for Water Management and protect vested senior surface water rights; and

(c) Administrative equipment: all billing equipment used in the billing and collection of fees, tolls, rates, charges and penalties for the provision of operations, services, and programs by the Enterprise.

2. Governing Body.

(a) Board. Pursuant to the Water Activity Law, section 37-45.1-103(3), C.R.S., the governing body of the Enterprise ("Governing Body") is the Board of Managers of Special Improvement District No. 5 of the Rio Grande Water Conservation District.

(b) Governance and By-Laws. The Governing Body is subject to all applicable laws, rules, and regulations pertaining to the Board. The Governing Body may adopt such lawful bylaws for its operations as deemed necessary or convenient by the Governing Body.

(c) Powers. The Governing Body is empowered to exercise all decision-making functions on behalf of the Enterprise except those subject to approval by the Board of Directors of the Rio Grande Water Conservation District.

The Governing Body, when acting on behalf of the Enterprise, may act in the name of the Enterprise or in the name of Subdistrict No. 5.

The Governing Body, in relation to Enterprise business, has all of the authority, powers, rights, obligations, and duties as may be provided or permitted to Subdistrict No. 5 in relation to the purposes of the Enterprise by the Water Activity Law, the Rio Grande Water Conservation District Act, and the Colorado Constitution.

On behalf of the Enterprise, the Governing Body has the power and authority to:

(1) in the name of the Enterprise or Subdistrict No. 5, with the approval of the Board of Directors of the Rio Grande Water Conservation as required by statute, make, execute and perform contracts, take and give instruments of conveyance, and do everything necessary, pertaining or incidental to the powers herein granted, and in so doing may make such special designations in such instruments as will indicate the capacity in which Subdistrict No. 5 is acting when such actions are taken by or on behalf of the Enterprise, such as "the Special Improvement District No. 5 of the Rio Grande Water Conservation District, acting by and through its Water Activity Enterprise;" provided that, notwithstanding the foregoing, no contract, conveyance, or other instrument shall be invalidated as a result of the failure to use any such special designation;

(2) purchase, acquire, construct, lease, condemn and purchase, extend and add to, maintain, conduct and operate services and programs necessary or advisable to protect existing beneficial uses of water within Subdistrict No. 5 and to further the Plan for Water Management;

(3) institute and defend all litigation affecting Enterprise powers and duties or in relation to the operations, services, and programs of the Enterprise and the property rights connected therewith or incidental thereto;

(4) designate, employ, retain, contract for, and discharge a manager and such other personnel and consultants as may be necessary or convenient to execute the policies of the Governing Body and to perform such other functions as the Governing Body may direct, and determine such compensation and conditions of employment or contract as the Governing Body may determine;

(5) adopt and enforce bylaws, rules and regulations of the Enterprise, including the ability to enforce such rules and regulations by the termination of service.

(6) fix and collect rents, rates, fees, tolls, and other charges, which rates, fees, tolls, charges, penalties of Subdistrict No. 5 shall relate to the operations, services, and programs provided and shall apply until such time as the Governing Body acts to change the same.

(7) fix reasonable penalties for delinquencies;

(8) issue bonds, notes, or other obligations payable from the revenues derived or to be derived from the operations, services, and programs of the enterprise, in accordance with the Water Activity Law and other applicable law and subject to the acquisition of such elector approval as may be required by law; authorize the issuance of such bonds, notes, or other obligations in accordance with applicable law, acting as both the Governing Body and the Board of Managers, however, no such bonds, notes, or other obligations shall be secured by the general revenues or taxing power of Subdistrict No. 5.

(9) pursuant to section 37-45.1-103(2)(b), C.R.S., contract with any other person or entity, including other districts or enterprises.

(d) Meetings. Whenever the Board of Managers is in session, the Governing Body will also be deemed to be in session. It will not be necessary for the Governing Body to meet separately from the regular and special meetings of the Board of Managers, nor will it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the Enterprise. The Governing Body may conduct its affairs in the same manner and subject to the same laws, which apply to the Board for the same or similar matters. Public notice of meetings of the Board shall constitute such notice for the Governing Body notwithstanding the existence or absence of a reference in such notice to the Governing Body.

3. Budgeting and Financial Management.

(a) Enterprise Budget Recommendations. The Enterprise will provide budget recommendations to the Board of Managers in accordance with statutory requirements and timing. The budget of the Enterprise will separately set forth recommended fiscal year spending, total revenue, and reserve funds of the Enterprise in such detail as determined appropriate by the Board of Managers. The Enterprise budget will include the estimated dollar amounts that the Enterprise intends to acquire from all sources.

As provided in section 37-45.1-103(1), C.R.S., the Enterprise, as “[a]ny water activity enterprise established or maintained pursuant to this article [45.1 of Title 37, C.R.S.] is excluded from the provisions of section 20 of article X of the state constitution.”

(b) Administration Budget. The Board of Managers will produce a budget for Subdistrict No. 5 administration and Subdistrict No. 5 governmental services not readily attributable to an enterprise (“Administration”).

(c) Final Budget. The Board of Managers will combine the budget for Administration, the budget recommendations for the Enterprise, and such other information as may be available to the Board of Managers to draft the budget for Subdistrict No. 5 for approval by the Board of Directors of the Rio Grande Water Conservation District.

(d) Mill Levies, Ad Valorem Taxes. In its sole discretion and subject to the limitations of law, the Board of Managers will determine the mill levies to be certified for Subdistrict No. 5 operations and debt service. **THE ENTERPRISE SHALL HAVE NO POWER WHATSOEVER TO IMPOSE OR LEVY ANY GENERAL TAX.** No evidence of indebtedness, debt, contract subject to annual appropriation, contract, or other financial obligation of the Enterprise shall be secured by the revenues of Subdistrict No. 5 where “revenues of Subdistrict No. 5” includes all of the sources of revenue authorized for the use of the Subdistrict No. 5 or includes any general taxes of Subdistrict No. 5, regardless of whether Subdistrict No. 5 has exercised the general taxing powers available to it. The general revenue raising powers of Subdistrict No. 5 will not be deemed to be an integral part of any Enterprise financing agreement.

(e) Audit. The Governing Body may cause the Enterprise to be audited separately from Subdistrict No. 5 or as an instrumentality of Subdistrict No. 5 to be included as part of the audit of Subdistrict No. 5. An audit of the Enterprise or application for exemption from audit shall be completed as and when required by Colorado law.

(f) Excess Enterprise Funds. The net earnings of the Enterprise will be appropriated for the necessary requirements of the Enterprise and any remaining surplus may be appropriated to the general revenues or other funds of Subdistrict No. 5 by the Board of Managers in its annual budget and appropriations resolution or any amendment thereof.

(g) Reserves. The Governing Body may provide for such reserves for the replacement of obsolescent or depreciated property or improvements to the System as may be necessary.

(h) Reports. The Enterprise will provide such reports to the Board of Managers or the Board of Directors as those Boards may request from time to time.

4. Reimbursement of Administrative Services Provided to the Enterprise by Subdistrict No. 5, if any. The costs of Administration provided for the Enterprise from the general revenues of Subdistrict No. 5 (i.e., such revenues as are not allocated to the Enterprise), if any, shall be allocated to, accounted for, and paid by the Enterprise in any reasonable manner as determined by the Board of Managers. In its discretion, the Board of Managers may provide for the direct payment of such costs, in which case the Enterprise shall in due course reimburse such costs to Subdistrict No. 5 in any reasonable manner as determined by the Board of

Managers. No direct payment of costs by Subdistrict No. 5 shall be deemed a "grant" to the Enterprise insofar and so long as they are reimbursed by the Enterprise within the same fiscal year.

5. Debt Allocation. As determined by the Board of Managers, the Enterprise will be responsible for its allocation of Subdistrict No. 5 debts, other financial obligations, revenue bonds, or other evidences of indebtedness as shown in bond or contract covenants, documentation of evidence of indebtedness, budget, or resolution of Subdistrict No. 5. Nothing herein permits the general taxing power of Subdistrict No. 5 to secure obligations of the Enterprise.

6. Financial Records. To the extent practicable, the financial records of the Enterprise will be maintained separately from the financial records of Subdistrict No. 5. Provided that accurate records are kept of the amount of funds allocable to the Enterprise and to Subdistrict No. 5, funds of the Enterprise and funds of Subdistrict No. 5 may be commingled for purposes of investment.

7. Instrumentality, Immunity. The Enterprise is deemed to be an "instrumentality" of Subdistrict No. 5 as such term is used in section 24-10-103(5), C.R.S., and as such is a "public entity" entitled to such benefits, burdens, and immunities as may be available to it under the Colorado Governmental Immunity Act, Part 1 of Article 10, Title 24, C.R.S.

It is declared by Subdistrict No. 5 that the existence of immunity under the Colorado Governmental Immunity Act is consistent with the nature of a government-owned business as the term is used in Colo. Const. Art. X, Sec. 20; that immunity from certain tort liabilities are common to businesses, such as the Colorado ski and equestrian industries; and that the mere existence of such immunity does not affect the status of the Enterprise.

8. Insurance.

Subdistrict No. 5 may procure and maintain insurance against personal or property damage or injury arising out of its own operations and the operations of the Enterprise in the following amounts:

(a) Bodily injury and property damage liability insurance with liability limits in amounts not less than the statutory liability limits per person and per occurrence as provided in Part 1 of Title 24, Article 10 of the Colorado Revised Statutes, as the same may be amended;

(b) Replacement level property insurance for the facilities and equipment of Subdistrict No. 5 and Enterprise.

In the event that Subdistrict No. 5 procures such insurance, Subdistrict No. 5 will name the Enterprise as an additional insured on all such liability policies.

In the event that Subdistrict No. 5 does not procure and maintain such insurance for the Enterprise, the Enterprise may do so in its own name and shall name Subdistrict No. 5 as an additional insured on all such liability policies.

9. Maintenance of Enterprise Status. The Enterprise must at all times conduct its affairs so as to continue to qualify as a “water activity enterprise” within the meaning of section 37-45.1-102, C.R.S., and as an “enterprise” within the meaning of Article X, Section 20, Colorado Constitution. Specifically, but not by way of limitation, the Enterprise is not authorized to, and must not, receive 10% or more of its annual revenue in grants from all Colorado state and local governments combined, including Subdistrict No. 5 or the Rio Grande Water Conservation District.

10. Disqualification, Cure. In the event that the Enterprise is disqualified as an enterprise by a court of competent jurisdiction, the Governing Body intends to cure the defects in the organization or operation of the Enterprise as soon as possible following the date of the final judgment of such court; but in no case will such a disqualification of the Enterprise be construed as working a disqualification of any other enterprise that may have been organized by Subdistrict No. 5. Any disqualifying grant may, upon approval of the Board of Managers, be returned to the grantor, or, if appropriate, placed in escrow by the grantor for the benefit of the Enterprise or Subdistrict No. 5 to accomplish the intent of the grantor while maintaining the Enterprise status of Subdistrict No. 5’s disputed Enterprise.

11. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution, the intent being that the same are severable.

12. Additional Enterprises. Subdistrict No. 5 may, in its discretion, designate additional enterprises or divide the Special Improvement District No. 5 of the Rio Grande Water Conservation District Water Activity Enterprise into smaller units, in the future as may be in the best interests of Subdistrict No. 5.

RESOLVED this ____ day of _____, 2020.

ATTEST:

BOARD OF MANAGERS
SPECIAL IMPROVEMENT DISTRICT NO. 5 OF
THE RIO GRANDE WATER CONSERVATION
DISTRICT

Secretary

President

Plan of Water Management

Special Improvement District No. 5 of the Rio Grande Water Conservation District

Effective Date: June 8, 2020

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The Board of Directors of the Rio Grande Water Conservation District (“District”) on behalf of the Board of Managers of Special Improvement District No. 5 (“Subdistrict”), submits the following Plan of Water Management (“Plan”) as the official Plan of the Subdistrict, subject to Court approval, pursuant to section 37-48-126, C.R.S. This Plan is consistent with a Groundwater Management Plan as defined in, and meets the requirements laid out in, the Rules Governing the Withdrawal of Groundwater in Water Division No. 3 (The Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division No. 3 for All Irrigation Water Rights (Case No. 15CW3024, District Court, in and for Water Division No. 3).

1.0 DEFINITIONS

1.1 “Administrative Fee” means a fee assessed by the Board of Managers on a per-well WDID or per-groundwater meter basis and used to fund the administrative costs of the Subdistrict Plan of Water Management and Annual Replacement Plan and other costs not directly dependent upon the quantity of groundwater withdrawn by Subdistrict Wells.

1.2 “Annual Service and User Fee” means total yearly fee assessed upon Subdistrict Land consisting of the sum of the Administrative Fee and the Groundwater Withdrawal Fee.

1.3 “Annual Replacement Plan” or “ARP” has the same meaning as that defined by the State of Colorado’s Groundwater Rules.

1.4 “ARP Year” means May 1st of the then current year through April 30th of the subsequent year.

1.5 “Calendar Year” means January 1st through December 31st of each year.

1.6 “Confined Aquifer” has the same meaning as that defined by the State of Colorado’s Groundwater Rules but includes only that portion located within the Subdistrict.

1.7 “Contract Well” means a well that is included by the process outlined in paragraph 4.2.4 via a formal agreement between the Subdistrict and the well owner to include a groundwater well that is not currently a Subdistrict Well in the Subdistrict’s ARP.

1.8 “CREP” means the 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 2014 or subsequent Farm Bill (Conservation Title). In general, CREP allows the USDA, in cooperation with a local sponsoring entity, to offer an annual rental payment for a term of fourteen or 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 objective of CREP is to support land and water conservation.

1.9 “Farm Plan” means all lands and wells under the control and management of an Owner and/or Operator.

1.10 “Groundwater Rules” means the rules promulgated by the State Engineer titled Rules Governing the Withdrawal of Groundwater in Water Division No. 3 (the Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division No. 3 for all Irrigation Water Rights (Case No. 15CW3024, District Court, in and for Water Division No. 3) as currently promulgated or as they may exist in the future.

1.11 “Groundwater Withdrawal Fee” means the fee assessed by the Board of Managers per acre-foot of Net Groundwater Withdrawn through Subdistrict Wells.

1.12 “Inactive Well” has the same meaning as that defined by the State of Colorado’s Measurement Rules.

1.13 “Measurement Rules” means the Rules Governing the Measurement of Ground Water Diversions located in Water Division No. 3, the Rio Grande Basin, adopted by the State

Engineer and approved by the District Court, in and for Water Division No. 3, Case No. 2005CW12 (August 1, 2006).

1.14 “Net Groundwater Withdrawn” or “Net Groundwater Withdrawals” means total groundwater withdrawn less any applicable Surface Water Credit. This could result in either a positive or negative value.

1.15 “Non-Benefited Subdistrict Land” means Subdistrict Land with no facility to receive delivery of groundwater withdrawn from a well or where the water consumed on the Subdistrict Land is only surface water or the consumptive use of groundwater pursuant to, and in compliance with, the provisions of a validly decreed plan for augmentation that addresses both the remedy of injurious stream depletions, including Post-Plan Injurious Depletions, and achieving and maintaining a Sustainable Water Supply in the Confined Aquifer, or Subdistrict Land receiving groundwater from wells operating only as alternate points of diversion for a surface water right. Some groundwater consumption may be only partially covered by a plan for augmentation in which case that land will be Subdistrict Land and will only be treated as non-benefited to the extent valid augmentation exists for groundwater withdrawn. Non-Benefited Subdistrict Land will not be assessed by the Subdistrict or subject to Annual Service and User Fees.

1.16 “Non-Exempt Well” means those structures making groundwater withdrawals that are subject to the Groundwater Rules.

1.17 “Post-Plan Injurious Stream Depletions” means injurious stream depletions caused by the withdrawal of groundwater by Subdistrict Wells and calculated by the appropriate Response Functions or by some other method approved by the State Engineer that occur after the end of the ARP Year in which the groundwater withdrawal took place.

1.18 “Response Area” has the same meaning as that defined by the State of Colorado’s Groundwater Rules.

1.19 “Response Functions” has the same meaning as that defined by the State of Colorado’s Groundwater Rules.

1.20 “RGDSS” has the same meaning as that defined by the State of Colorado’s Groundwater Rules.

1.21 “RGDSS Groundwater Model” has the same meaning as that defined by the State of Colorado’s Groundwater Rules.

1.22 “Rules and Regulations”, unless referring to rules promulgated by the State Engineer, means Rules and Regulations duly adopted by the Subdistrict Board of Managers and approved by the Board of Directors of the Rio Grande Water Conservation District.

1.23 “Saguache Response Area”, means that areal extent as defined by the Groundwater Rules.

1.24 “Subdistrict”, unless referring to other Subdistricts in Water Division No. 3, means Special Improvement District No. 5 of the Rio Grande Water Conservation District as decreed by the District Court in and for Saguache County, Case No. 2017CV30015, December 18, 2017.

1.25 “Subdistrict Land” means, pursuant to section 37-48-123(d), C.R.S., all lands that are within the exterior boundaries of the Subdistrict as decreed by the District Court in and for Saguache County, Case No. 2017CV30015, December 18, 2017.

1.26 “Subdistrict Members” means individuals or entities that own Subdistrict Land.

1.27 “Subdistrict Wells” means wells used by Subdistrict Members that were included in a Petition to Join the Subdistrict, or as such Wells may be lawfully changed in the future.

1.28 “Surface Water Credit” means surface water brought into the Subdistrict through the Rio Grande Canal system, is recharged on Subdistrict Lands or on other lands within the Saguache Response Area pursuant to a contract with the Subdistrict, and is not consumed through irrigation practices or other beneficial uses. Such Surface Water Credit is used by the Subdistrict for the purpose of calculating the Groundwater Withdrawal Fee and has no relationship to Recharge Decrees adjudicated by the Division 3 Water Court. It does not include surface water that is only decreed for use on lands outside the Subdistrict.

1.29 “Sustainable Water Supply” has the same meaning as that defined by the State of Colorado’s Groundwater Rules.

1.30 “Water Administration Year” means the period from November 1st to October 31st of the subsequent year.

1.31 “WDID” means a unique number assigned by the Colorado Division of Water Resources to a water diversion structure to be used as an identification number. The structure identification number and the water district are combined to create an ID number that is unique to each structure throughout the state.

2.0 BACKGROUND AND BASIS FOR THE PLAN OF WATER MANAGEMENT

2.1 Current Situation

2.1.1 Members of the Subdistrict are landowners within the Rio Grande Water Conservation District who rely on groundwater for all or part of their commercial, industrial and/or irrigated agricultural practices within the area defined by the Rio Grande Decision Support System Groundwater Model and the Rules Governing the Withdrawal of Groundwater in Water Division 3, District Court, Water Division No. 3, Case No. 15CW3024 as the Saguache Response Area. The RGDSS Groundwater Model has calculated stream depletions occurring to

surface water streams caused by wells withdrawing water from the groundwater system within the Saguache Response Area that may cause injury to senior surface water rights and/or unreasonably interfere with the state's ability to fulfill its obligations under the Rio Grande Compact, codified in section 37-66-101, C.R.S. In order to remedy the injury or interference, the State Engineer has promulgated Groundwater Rules (Case No. 15CW3024, District Court in and for Water Division No. 3) that will have a direct impact on the future use of groundwater within the Saguache Response Area.

2.1.2 The Groundwater Rules require that the Confined Aquifer be regulated so as to maintain a Sustainable Water Supply in the Confined Aquifer with due regard for the daily, seasonal and long-term demand for underground water. This requirement will have a direct impact on the future use of groundwater within the Saguache Response Area.

2.2. Subdistrict Land

2.2.1 Subdistrict Land is limited to lands served by Non-Exempt Wells that withdraw groundwater 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.

2.2.2 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 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 goals and overall objective. In adopting a rule for this purpose, the Subdistrict Board of Managers may contract

with well owners whose well impacts are not determined by the Saguache Response Area Response Functions but can be determined by methods accepted under the Groundwater Rules, and whose impacts are similar to those of Subdistrict Wells.

2.2.3 Subdistrict Land will remain a part of the Subdistrict for as long as the Subdistrict is in existence.

2.3 Plan Goals and Overall Objective

2.3.1 The principal goals of the Subdistrict are to protect senior surface water rights and support a Sustainable Water Supply in the Confined Aquifer underlying the Subdistrict's boundaries and to avoid unreasonable interference with the state's ability to fulfil its obligations under the Rio Grande Compact. To achieve these goals, managing overall groundwater consumption is necessary.

2.3.2 Subdistrict Members that divert groundwater from the underlying Confined Aquifer 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, the State of Colorado, may take administrative action in compliance with its rules and regulations.

2.3.3 The overall objective of the Plan is to provide a water management alternative to individual plans for augmentation 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 groundwater use and management and ensures protection of senior surface water rights. The operation of this Plan will comply with the applicable requirements of Senate Bill 04-222, codified at section 37-92-501(4), C.R.S and any future amendments to this legislation.

2.4 Effect of Subdistrict and Plan

2.4.1 Except as provided in paragraph 3.3.1, neither the creation of the Subdistrict nor this Plan will alter or affect any vested surface or groundwater rights. Nor will the creation of the Subdistrict or 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.

2.4.2 Neither the creation of the Subdistrict nor this Plan will alter or affect the ability of individual water users to exchange, trade, lease, or sell surface water 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 water consumption.

2.4.3 Water rights purchased, leased or retired by the District on behalf of the Subdistrict will be used to remedy injurious stream depletions resulting from the withdrawal of groundwater by Subdistrict Wells and/or to assist in achieving and maintaining a sustainable water supply for the groundwater users within the boundaries of the Rio Grande Water Conservation District. Purchased and/or retired water rights will only be used for purposes consistent with this Plan.

2.4.4 If a Subdistrict Member elects to temporarily reduce the amount of groundwater irrigation or otherwise reduce the consumptive use of water on Subdistrict Land and the Subdistrict Board of Managers authorizes such reduced irrigation or reduced consumptive use for conservation purposes and to assist in the remedy of injurious stream depletions to senior water rights from Subdistrict Wells, and/or to assist in achieving and maintaining a sustainable water supply for the groundwater users within the boundaries of the Rio Grande Water Conservation

District, this period of non-use will not be considered for purposes of abandonment or reductions in the water right, as provided by law.

2.4.5 Only Subdistrict Lands will be subject to assessment by the Subdistrict. Non-Benefited Subdistrict Land will not be assessed Annual Service and User Fees. Groundwater withdrawals from Subdistrict Wells outside of an approved plan for augmentation, but otherwise within a permit or decree, will be subject to Annual Service and User Fees.

2.4.6 It is not the intent of the Subdistrict to allow or assist in the expansion of historical consumptive use of groundwater above that currently existing under valid permits or decrees. The Subdistrict may consent to an expansion of the historical consumptive use of groundwater if the expansion is within the terms and conditions of a valid permit or decree which existed as of December 18, 2017. The Subdistrict and this Plan of Water Management or ARP cannot be used as a source of water for new or expanded consumptive use of groundwater which is not within the terms and conditions of a valid permit or decree which existed as of December 18, 2017, or for new or expanded plans for augmentation or other replacement plans without the approval of both the Court and the Subdistrict's Board of Managers. The Board of Managers will not approve the use of the Plan or the ARP as a source for replacement of a new or expanded use if it would in any way adversely affect the Subdistrict's ability to satisfy its obligation to remedy injurious stream depletions and/or its ability to achieve and maintain a Sustainable Water Supply.

2.5 Effective Date of Plan

2.5.1 This Plan is only effective after approval of the Board of Directors of the Rio Grande Water Conservation District and the State Engineer pursuant to section 37-48-126, C.R.S. If any objections are filed with the Court against the State Engineer and/or District's

approval of the Plan, the Plan will become effective only after the Court issues an order approving the Plan as pursuant to section 37-48-126 (3)(c), C.R.S.

2.5.2 The Subdistrict will remedy injurious stream depletions that occur as a result of Subdistrict Well groundwater withdrawals on or after the State Engineer's approval of the Subdistrict's first Annual Replacement Plan, as well as Post-Plan Injurious Stream Depletions impacting a surface stream from Subdistrict Well groundwater withdrawals in prior years and all Post-Plan Injurious Stream Depletions that will occur in subsequent years, as are capable of quantification using the RGDSS Groundwater Model or by some other method approved by the State Engineer.

3.0 DESCRIPTION OF PLAN OF WATER MANAGEMENT

3.1 General Plan Description

3.1.1 Upon approval of the Plan, Subdistrict Members withdrawing and/or consumptively using groundwater that is withdrawn from Subdistrict Wells are required to contribute financially to a program(s) the Board of Managers will initiate to ensure injurious stream depletions to senior surface water rights resulting from Subdistrict Well groundwater withdrawals are replaced or otherwise remedied, and, if necessary, to reduce the total amount of groundwater consumption occurring within the Subdistrict. Program(s) may be implemented in the first year of Subdistrict operation or any year thereafter. The Plan will generate sufficient revenues to fund the operations of the Subdistrict, including, without limitation, replacing or otherwise remedying any injurious stream depletions calculated to occur to senior surface water rights as the result of groundwater withdrawals from Subdistrict Wells and to avoid unreasonable interference with Colorado's obligations under the Rio Grande Compact, as may be required under Colorado law, and, if necessary, to permit the retirement or temporary fallowing of

sufficient water use within the Subdistrict, to protect senior surface water rights. Revenue will be generated by the imposition of an Annual Service and User Fee.

3.2 Acts and Improvements

3.2.1 To further the goals and objectives of the Plan, the Subdistrict intends to implement some or all of the following non-exclusive list of acts or improvements, in the discretion of the Board of Managers:

3.2.1.1 Calculation and replacement or remedy of injurious stream depletions.

3.2.1.2 Recommend and request the Board of Directors of the Rio Grande Water Conservation District purchase, rent, lease and/or retire irrigated lands and/or purchase, rent and/or lease water rights and/or reservoir storage, either inside or outside the exterior boundaries of the Subdistrict for the benefit of Subdistrict Wells.

3.2.1.3 If necessary, a program of temporary or permanent fallowing, including economic incentives for temporary or permanent fallowing, potentially in cooperation with federal programs such as CREP, to remove acreage from production, on an ongoing basis, to achieve a reduction in groundwater consumption, if necessary, to achieve the goals of the Plan.

3.2.1.4 Provide economic incentives for Subdistrict Members or non-Subdistrict members to provide replacement water, land, or facilities for the benefit of the Subdistrict.

3.2.1.5 Calculation of increases and decreases in groundwater levels and/or aquifer pressures to maintain a Sustainable Water Supply.

3.2.1.6 Infrastructure improvements to maximize the diversion, use and recharge of water available.

3.2.1.7 Education and/or research into water conservation, water use efficiency, improved water management, and agricultural water use.

3.2.1.8 Through the District, construction, acquisition, improvement and operation of ditches, headgates, and other facilities to make the best use of available water and to improve groundwater recharge.

3.2.1.9 Data collection and analysis programs designed to verify and improve RGDSS predictions, further refine the calculation of stream depletions caused by groundwater withdrawals, or otherwise help the Subdistrict achieve Plan objectives.

3.2.1.10 Pursuit of changes of water rights, exchanges, plans for augmentation, substitute water supply plans or other judicial or administrative proceedings to implement or defend the Plan or otherwise to protect the interests of the Subdistrict.

3.2.1.11 Work, in cooperation with USDA-NRCS and other entities, to develop annual water supply forecasts based on SNOTEL and snow course data to include development of new and improved technologies.

3.2.2 The Subdistrict intends to use a combination of these acts and improvements concurrently, or as they become economically viable and physically possible, to achieve the goals of the Plan. The Plan will operate for an indefinite period to ensure the remedy of injurious stream depletions resulting from groundwater withdrawals by Subdistrict Wells and to achieve and maintain a Sustainable Water Supply in the Confined Aquifer that meets the standards defined in the Groundwater Rules. This Plan recognizes it may be necessary for the Subdistrict to cooperate with other subdistricts to ensure that impacts to the Sustainable Water Supply in the Confined Aquifer as a result of groundwater withdrawals in those other subdistricts is not impacting this Subdistrict's ability to meet its obligation regarding a Sustainable Water Supply as required by the Groundwater Rules.

3.2.3 At such time as the operation of Subdistrict Wells is not causing injurious stream depletions, the Confined Aquifer is maintained at a level that meets the Sustainable Water Supply standards set out in the Groundwater Rules, 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.

3.3 Other Management Tools

The Board of Managers will adopt Rules and Regulations, policies, 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. Rules and Regulations have been developed by the Board of Managers in conjunction with this Plan. In order to manage water use within the Subdistrict, the Subdistrict may use some or all of the following acts and policies:

3.3.1 Annual groundwater withdrawal allocations and/or limits. By petitioning land into the Subdistrict, landowners explicitly authorized and agreed to abide by any groundwater allocations or limits imposed by the Board of Managers either by individual Subdistrict Well or by Farm Plan. This covenant, 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.

3.3.2 Enactment of an economic incentive to reduce excessive or inefficient groundwater use as may be reasonably necessary to further the goals and objectives of the Plan and/or ARP or to comply with Colorado law.

3.3.3 Economic or other penalties for violating Subdistrict rules or regulations, up to and including, subjecting non-complying Subdistrict Wells to the State's administrative rules and regulations by removing the wells from the Subdistrict's ARP.

3.3.4 Monthly, quarterly or bi-annual groundwater withdrawal meter reporting to the Subdistrict.

3.3.5 Contracts with government or other public entities to allow such governments or other entities to have the goals and benefits as are defined in each individual contract.

3.3.6 Contracts with persons or entities who irrigate lands solely with surface water to allow such persons or entities to have the goals and benefits as are defined in each individual contract.

3.4 Protection of Senior Surface Water Rights

3.4.1 To ensure the protection of senior surface water rights and to avoid unreasonable interference with Colorado's obligations under the Rio Grande Compact, the Subdistrict will utilize a portion of its revenues to remedy any injurious stream depletions determined to occur to surface streams resulting from the operation of Subdistrict Wells.

3.4.2 As required by the Groundwater Rules, the Subdistrict will utilize the then current Response Functions developed by the State for the Saguache Response Area or some other method approved by the State Engineer to calculate the amount, timing and location of stream depletions caused by the withdrawal of groundwater by Subdistrict Wells or Contract Wells.

3.4.3 The implementation of the strategies set forth in this 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:

3.4.3.1 Establish and maintain a network of observation wells as necessary to assist in refining the RGDSS Groundwater Model or replacement technology;

3.4.3.2 Encourage participation in a Subdistrict program(s) that targets a reduction in groundwater withdrawals from Subdistrict and Contract Wells by reducing overall consumptive use of groundwater.

3.4.3.3 Purchase, lease or otherwise obtain existing water rights and/or storage rights to be used as replacement water for any injurious stream depletions to surface water rights resulting from withdrawal of groundwater by Subdistrict and Contract Wells; and,

3.4.3.4 Enter into agreements with ditch and canal owners that provide for the remedy of injurious stream depletions by means other than providing water to replace injurious stream depletions.

3.5 Sustainable Water Supply

The Subdistrict will comply with the Sustainable Water Supply requirements of the Groundwater Rules as they currently exist or as they may be amended in the future, including, but not limited to, Rules 8.1.7 and 8.7.

3.5.1 To assure the State Engineer the Subdistrict is in compliance with the Sustainable Water Supply requirements of the Groundwater Rules, the following analysis will be completed on an annual basis:

3.5.1.1 The Subdistrict will estimate the average historical groundwater withdrawals from all Subdistrict and Contract Wells by analyzing information included in the Groundwater Model for the purpose of modeling the 1978-2000 groundwater withdrawals for the Saguache Response Area. The historical 1978-2000 groundwater withdrawals from wells of Subdistrict Members which have since been abandoned or were re-permitted to be exempt from the Groundwater Rules will also be included in this estimate. This estimated average will be compared to the State-provided average groundwater withdrawals for the Response Area for the

period 1978-2000, as adjusted in accordance with the Stipulation entered into between the State and the Rio Grande Water Conservation District in the Groundwater Rules, to determine the Subdistrict's minimum proportional share of the total Response Area groundwater withdrawals.

3.5.1.2 The Subdistrict will then calculate the average of the total annual groundwater withdrawals from all Subdistrict and Contract Wells using the five most current Water Administration Years.

3.5.1.3 The Subdistrict will compare the proportional share of the total Response Area groundwater withdrawals from 1978-2000 for all Subdistrict and Contract Wells calculated in paragraph 3.5.1.1 above against the Subdistrict's five-year rolling average of total groundwater withdrawals calculated in paragraph 3.5.1.2 above to determine if the Subdistrict is in compliance with the Sustainable Water Supply requirements of the Groundwater Rules.

3.5.1.4 As part of the ARP, the Subdistrict will provide the information used to prepare the annual Sustainable Water Supply analysis. The ARP will also include details for all plans and/or programs the Subdistrict may implement to assist in assuring the requirements for a Sustainable Water Supply are being met, and will include, if necessary, measurable benchmarks the Subdistrict will use to demonstrate progress towards compliance. When necessary, and in addition to any other plans or programs the Subdistrict has implemented to assist in assuring a Sustainable Water Supply in the Confined Aquifer, the Subdistrict will: 1) create and enhance a program to require incremental reduction in groundwater withdrawals from Subdistrict and Contract Wells and/or 2) create and enhance a Confined Aquifer recharge program to offset groundwater withdrawals from Subdistrict and Contract Wells.

3.5.1.5 If the Subdistrict is not in compliance with the Sustainable Water Supply requirements of the Groundwater Rules in the first year of operation under the ARP, the

Subdistrict's Board of Managers will monitor the Subdistrict's 5-year rolling average of total groundwater withdrawals, calculated in paragraph 3.5.1.2, for the first three years the Subdistrict is operating under an approved ARP in order to determine if the imposition of a groundwater withdrawal fee lowers the annual groundwater withdrawals to within the requirements of the Sustainable Water Supply as determined by paragraph 3.5.1.3. If, after the first three years, the imposition of a fee does not reduce Subdistrict groundwater withdrawals to the level necessary to meet the Sustainable Water Supply requirements of the Groundwater Rules, the Board of Managers must implement one or more of the following actions: a temporary or permanent fallow program, which may include a Conservation Reserve Enhancement Program; purchase and retire groundwater rights; or, require mandatory reductions in groundwater withdrawals from Subdistrict Wells and Contract Wells. If other actions taken by the Board of Managers have not brought the Subdistrict into compliance with the Sustainable Water Supply requirements of the Groundwater Rules by the end of the sixth year of operating under an annual ARP, the Board of Managers must require reductions in groundwater withdrawals from Subdistrict Wells and Contract Wells in an amount necessary to bring the 5-year running average groundwater withdrawals to within the range required for compliance by the end of the tenth year of operations.

At the discretion of the Board of Managers, actions may be taken in an order different than that listed above to assure the Subdistrict will meet the Sustainable Water Supply requirements of the Groundwater Rules.

3.5.1.6 If, in the future, but within the 10 year period allowed to achieve sustainability as allowed by the Groundwater Rules, the Subdistrict achieves and then falls outside the applicable metric to determine compliance with the preferred methodologies to be used to define

compliance with the Sustainable Water Supply requirements of the Groundwater Rules, the Subdistrict, through its Board of Managers, will implement the actions described in paragraph 3.5.1.5, above, in such amounts as necessary to return the Subdistrict's five-year rolling average to be in compliance within the 10 year time period as required by the Groundwater Rules.

3.5.2 The Subdistrict will consult with the State Engineer to determine the preferred methodologies to be used to define compliance with the Sustainable Water Supply requirements of the Groundwater Rules. If preferred methodologies to maintain a Sustainable Water Supply in the Confined Aquifer are amended within the Groundwater Rules, the calculations defined in paragraph 3.5.1 above will be revised to assure compliance with the Groundwater Rules.

3.6 Contracting Authority

3.6.1 The Subdistrict may recommend and request that the Board of Directors of the Rio Grande Water Conservation District contract with willing water rights holders on behalf of the Subdistrict to purchase or lease water and temporarily or permanently change the water rights so as to be legally able to be used for recharge, storage, or other means of augmentation or replacement to replace injurious 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 water right holders to purchase or lease any available surplus augmentation credits from qualifying court approved plans for augmentation to advance the Plan goals and overall objectives.

3.6.2 Any funds collected from contracts with non-Subdistrict entities will be applied to advance the Plan goals and overall objective and/or as an offset of the administrative costs of managing the Subdistrict.

4.0 SUBDISTRICT COSTS, FEES AND CHARGES

4.1 General Description

4.1.1 The Subdistrict is entitled to raise funds by assessment of reasonable Annual Service and User Fees to carry out the goals and overall objective set forth in this Plan. The Subdistrict intends to finance its costs by raising sufficient revenue, in a fair and equitable manner, through the imposition of Annual Service and User Fees. Annual Service and User Fees will consist of two components, an annual Administrative Fee and an annual Groundwater Withdrawal Fee. Each component will be evaluated annually, and if appropriate, will be adjusted by the Board of Managers as required by this Plan and in response to the demands of the Annual Replacement Plan.

4.1.2 The Subdistrict's Plan of Water Management is founded on a program of economic-based incentives to reduce groundwater consumption and encourage responsible groundwater management through the implementation of improvements while remedying injurious stream depletions caused by the withdrawal of groundwater through Subdistrict Wells.

4.1.3 The Subdistrict will require a source of financing for Plan of Water Management and Annual Replacement Plan operations and will assess an annual Groundwater Withdrawal Fee for this purpose. The total annual Groundwater Withdrawal Fee must be limited to the amount shown by specific items in the ensuing annual budget as required to provide sufficient revenue for the Subdistrict's operations, including: protection of senior surface water rights; funds to support a portfolio of water and/or a fund to assure the remedy of Post-Plan Injurious Stream Depletions; permanent retirement and/or annual fallowing of lands; establishment of a reasonable reserve fund; achievement and maintenance of a Sustainable Water Supply; and, any necessary infrastructure improvements.

4.1.4 The Subdistrict will also require a source of financing for administration of the Plan of Water Management and Annual Replacement Plan and other costs not directly dependent upon the quantity of groundwater withdrawn by Subdistrict Wells. The Subdistrict will assess an annual Administrative Fee for this purpose. The total annual Administrative Fee charged by the Subdistrict must be limited to the amount shown by specific administrative expenditures in the ensuing annual budget, including but not limited to: cost of providing staff, engineering, legal and office space; a reasonable reserve fund; and, to repay the District the sum agreed upon by the Subdistrict and the District for expenses which are incurred after Subdistrict formation but prior to the initial fee collection and paid up front by the District.

4.1.5 The Subdistrict will be required to have a portfolio in place which can sufficiently remedy Post-Plan Injurious Stream Depletions as a condition of the Division of Water Resources' approval of any ARP. This portfolio may include money, water, long-term forbearance agreements and/or a guarantee from the District that Subdistrict assessments will continue in an amount necessary and for so long as necessary to replace Post-Plan Injurious Depletions. Should Subdistrict Wells not be allowed to continue to withdraw groundwater because Subdistrict objectives and goals are not being met, the Subdistrict may continue to assess fees until all Post-Plan Injurious Stream Depletions caused by past groundwater withdrawals from Subdistrict Wells have been remedied. Further, if the Board of Managers does not submit an ARP that provides a remedy for Post-Plan Injurious Stream Depletions, the Board of Directors of the District may develop an ARP to remedy those Post-Plan Injurious Stream Depletions and set Administrative and Groundwater Withdrawal Fees in such amounts as are necessary. In such circumstances, the Board of Managers or Board of Directors may base the

Groundwater Withdrawal Fee on some previous time-period of groundwater withdrawals per Subdistrict or Contract Well.

4.2 Description of Annual Service and User Fees

4.2.1 Administrative Fee

4.2.1.1 On an annual basis, the Subdistrict Board of Managers will establish an Administrative Fee per Subdistrict Well (WDID). Where multiple wells (WDIDs) are combined through a single meter, providing a single groundwater withdrawal amount, the Subdistrict may consider the combined system a single Subdistrict Well for purposes of assessing the Administrative Fee. Meters used to record only surface water diversions will not be assessed an Administrative Fee. Only meters that are used to record use of groundwater or that record both surface water diversions and the use of groundwater will be assessed an annual Administrative Fee.

4.2.1.2 The Subdistrict may assess the Administrative Fee based on a tiered-system consisting of two tiers. Tiers are defined as: 1) active wells and 2) inactive wells. The Subdistrict will use Division of Water Resources records to classify each Subdistrict Well into one of these two tiers on an annual basis. Inactive wells have filed the required paperwork and have been granted inactive status by the Division of Water Resources pursuant to its Measurement Rules. Wells must have been classified inactive for the entirety of the prior ARP Year. If a well is active for any portion of the prior ARP Year, it will be considered an active Subdistrict Well for the purpose of assessing the Administrative Fee. Wells with no groundwater withdrawals but classified as active by the Division of Water Resources will be considered active for fee calculation purposes.

4.2.1.3 Non-Exempt Wells that are not required to have a meter under the State of Colorado's Measurement Rules will be assessed an Administrative Fee per well and are subject to the same terms as those for other wells with meters set forth in paragraph 4.2.1.2, above.

4.2.1.4 When the Subdistrict calculates the annual Administrative Fee, Inactive Wells will be assessed a reduced Administrative Fee only if the Subdistrict can determine the actual administrative costs for these inactive Subdistrict Wells are less than the actual administrative costs for active Subdistrict Wells. If the difference in administrative costs is minimal and is outweighed by the cost to classify each Subdistrict Well into one of these two tiers, the Subdistrict will assess every Subdistrict Well (WDID), or meter where multiple Subdistrict Wells (WDIDs) are combined through a single meter, whether active or inactive, the same Administrative Fee.

4.2.1.5 To reduce the potential for error in the fee calculation process, annual Administrative Fees will be assessed one-year in arrears to allow the Subdistrict sufficient time to properly review and classify each Subdistrict Well's status for purposes of classifying them into one of the two tiers defined above and to determine if there was a measurable difference in administrative costs between the two tiers. Annual Administrative Fees will be assessed upon the Subdistrict Lands at the time the Fees are placed on the tax rolls of each County.

4.2.1.6 If, after the first Subdistrict assessments have been made, a Subdistrict Well is approved for inactive status and then returned back to an active status at some later time, the Subdistrict may assess a penalty. A penalty will only be assessed if the Subdistrict determines that the change in status increased the Subdistrict's costs to administer the Subdistrict Well. The Subdistrict will make such determination on a case-by-case basis.

4.2.1.7 The Board of Managers may amend the method of calculation of the annual Administrative Fee if the Board of Managers finds that the above-described method is not sufficiently effective in providing the Subdistrict with the necessary funds required to administer the Plan and Annual Replacement Plan. The Board of Managers may only change the method used to calculate the annual Administrative Fees after proceeding through a public process that allows Subdistrict Well Owners to understand the need to amend the method and to participate in the process. Any amendments to the method for calculating the Administrative Fee must also be ratified by the Board of Directors of the District. The process for amending the method used to calculate the annual Administrative Fees is defined in the Rules and Regulations for Subdistrict No. 5.

4.2.2 Groundwater Withdrawal Fee

4.2.2.1 On an annual basis, the Subdistrict Board of Managers will establish a Groundwater Withdrawal Fee per acre-foot of Net Groundwater Withdrawn from Subdistrict Wells. The Groundwater Withdrawal Fee is independent of any mandatory restrictions on groundwater withdrawals under paragraph 3.3.1 above. The Groundwater Withdrawal Fee will be based on Net Groundwater Withdrawals. Net Groundwater Withdrawals is calculated from the gross groundwater withdrawals, as reported to the Colorado Division of Water Resources or reported by such other data-recording method acceptable to the Subdistrict, less Surface Water Credit, if any. The Groundwater Withdrawal Fee will not be based or assessed on individual consumptive use of groundwater but may be based on broad classifications of consumptive use as stated in paragraph 4.2.2.3 below.

4.2.2.2 Only Subdistrict Lands or those lands contracted with the Subdistrict which can be legally served by the Rio Grande Canal will be provided a Surface Water Credit in

the calculation of the Groundwater Withdrawal Fee. As further described in the Rules and Regulations, the Surface Water Credit will be based on the requirements of the Findings of Fact, Conclusions of Law, Judgment and Decree entered in Case No. W-3979 (December 27, 1984) to calculate the amount of surface water not consumed and returned to the aquifer. Surface Water Credit may be calculated based on a single year or multiple years and will be one-year in arrears. The Surface Water Credit will be set so as to operate as an acre-foot to acre-foot offset to all or a portion of the Groundwater Withdrawal Fee. If the Subdistrict elects to assess the Groundwater Withdrawal Fee as a two-part fee, Surface Water Credit will only be applicable to the remedy portion of the two-part fee. Surface Water Credit will not result in a monetary refund to a Subdistrict Member, but Surface Water Credit in excess of a Subdistrict Member's Groundwater Withdrawal Fee may be carried forward, as further described in the Rules and Regulations, after which time they are forfeited.

4.2.2.3 The Subdistrict may assess the Groundwater Withdrawal Fee as a two-part fee. The first part of the Groundwater Withdrawal Fee is a flat fee assessed against every acre-foot of groundwater withdrawn from Subdistrict Wells. The revenues collected from the first part of the Groundwater Withdrawal Fee will be used to fund programs to meet the Sustainable Water Supply requirements of the Subdistrict. The Subdistrict Board of Managers may adopt rules to allow a Subdistrict Landowner to elect to eliminate a portion of the Groundwater Withdrawal Fee by accepting a Subdistrict-imposed limit on the amount of groundwater withdrawals from their Subdistrict Wells, that is separate of any Subdistrict-wide groundwater allocation, in an amount that would assist the Subdistrict in achieving a Sustainable Water Supply.

The second part of the Groundwater Withdrawal Fee may be based on a tiered-system which is a broad classification of differing consumptive uses based on application types and the net impacts on surface streams and senior surface water rights by the withdrawal of groundwater from Subdistrict Wells, with the tier with the highest percentage of consumptive use per acre-foot withdrawn being charged the highest fees. At the time of this Plan's approval, three tiers are recognized based on application types identified by the Division of Water Resources in the Saguache Response Area Response Functions for the calculation of the net groundwater consumptive use of the groundwater withdrawn by Subdistrict Wells. These three tiers are defined as: 1) Sprinkler; 2) Flood; and, 3) Other Uses. A Subdistrict Well may be classified into two or more tiers if the amount of groundwater being applied toward each tier can be separately measured by a method that is acceptable to the Subdistrict. If the different applications cannot be separately measured by a method that is acceptable to the Subdistrict, the Subdistrict will classify all of the groundwater use at the highest consumptive use tier based on the application types for that particular Subdistrict Well. For example, if a Subdistrict Well withdraws groundwater for sprinkler and flood applications that cannot be separately measured, the Net Groundwater Withdrawals for that Subdistrict Well will be assessed at the Sprinkler tier. At the Board of Manager's discretion, tiers may be added or removed if the then current Saguache Response Area Response Functions add and/or remove application types for the calculation of the net consumptive use of groundwater withdrawn from Subdistrict Wells and/or for wasteful practices. The revenues collected from this second part of the Groundwater Withdrawal Fee will be used to fund the remedy of injurious stream depletions caused by the withdrawal of groundwater from Subdistrict Wells and to fund any other expenditures the Board of Manager's deem necessary to meet Subdistrict goals and objectives.

4.2.2.4 Annual Groundwater Withdrawal Fees will be calculated on Net Groundwater Withdrawals per Subdistrict Well during the Water Administration Year prior to the Water Administration Year in which the Groundwater Withdrawal Fees are calculated.

4.2.2.5 Non-Exempt Wells that are not required to have a meter under the Measurement Rules and are not inactive during the prior ARP Year will be assessed an annual Groundwater Withdrawal Fee calculated on Net Groundwater Withdrawals, as described in paragraph 4.2.2.4 above. The Subdistrict Member who uses such a well must provide the Subdistrict the amount of water withdrawn through said well during each Water Administration Year using a method acceptable to the Subdistrict and approved by the State prior to any withdrawal of groundwater through the well. Such wells that withdraw groundwater without an approved alternative method of measurement will be in violation of this Plan of Water Management and the applicable ARP. Such wells are otherwise subject to the same terms as those for wells with meters set forth in paragraph 4.2.2.3, above.

4.2.2.6 Wells that have received a variance under the Measurement Rules will be evaluated by the Subdistrict on a case-by-case basis to determine the best available method to determine the amount of Net Groundwater Withdrawn through such wells and such wells are otherwise subject to the same terms as those for wells with meters set forth in paragraph 4.2.2.3, above.

4.2.2.7 To reduce the potential for error in the fee calculation process, annual Groundwater Withdrawal Fees will be assessed one-year in arrears of the year of groundwater withdrawals included in the calculation described in paragraph 4.2.2.4 above. This will allow the Subdistrict time to properly review and classify each Subdistrict Well's groundwater use into the

proper tier(s) and assure any discrepancies regarding meter records are resolved with the Division of Water Resources so Groundwater Withdrawal Fees are more accurately assessed.

4.2.2.8 Annually, the Subdistrict will determine if there is a measurable cost-benefit to classifying groundwater use into defined tiers. If there is only a minimal benefit to using a two-part fee or for setting separate tier rates, the Subdistrict may assess every acre-foot of Net Groundwater Withdrawn from a Subdistrict Well at an equal per acre-foot rate regardless of the application type. Revenues collected under a flat-rate fee will be used to fund any and all expenditures the Board of Manager's deem necessary to meet the Subdistrict's goals and objectives.

4.2.2.9 Although Groundwater Withdrawal Fees will be calculated one-year in arrears, the annual Groundwater Withdrawal Fees will be assessed upon the Subdistrict Lands at the time the Fees are placed on the tax rolls of each County.

4.2.2.10 The above-described method for calculation of the annual Groundwater Withdrawal Fees can be amended if it is found that this method is ineffective in providing the Subdistrict with the necessary funds required to operate and manage the Plan or Annual Replacement Plan. The Board of Managers will only be allowed to change the method used to calculate the annual Groundwater Withdrawal Fees after proceeding through a public process that allows Subdistrict Well Owners to understand the need to amend the method and to allow them to participate in the process. Any amendments to the method for calculating the Groundwater Withdrawal Fee must also be ratified by the Board of Directors of the District. The process for amending the method used to calculate the annual Groundwater Withdrawal Fees is defined in the Rules and Regulations for Subdistrict No. 5.

4.2.3 Wells Covered by Plans for Augmentation

4.2.3.1 A Subdistrict Well which is currently or at some time in the future becomes fully or partially augmented under a court-approved plan for augmentation which includes provisions that address the remedy of the well's injurious stream depletions to senior surface water rights, both current year injurious stream depletions and any Post-Plan Injurious Stream Depletions, and achieving and maintaining a Sustainable Water Supply in the Confined Aquifer System, will be considered under the following criteria set out specifically for dealing with wells covered by plans for augmentation for Annual Service and User Fee calculations.

4.2.3.2 Subdistrict Wells that are only partially augmented under a court-approved plan for augmentation will be assessed an annual Administrative Fee similar to that assessed to all Subdistrict Wells as described in paragraph 4.2.1 above.

4.2.3.3 Subdistrict Wells that are only partially augmented under a court-approved plan for augmentation will be assessed an annual Groundwater Withdrawal Fee on only the amount of Net Groundwater Withdrawals that are not included within a court-approved plan for augmentation but are otherwise legal withdrawals as of the time this Plan is approved. Annually, the Subdistrict will consult with the Division of Water Resources' staff to determine the amount of groundwater that was withdrawn through Subdistrict Wells and not covered under plans for augmentation. The amount of non-augmented Net Groundwater Withdrawals will be used by the Subdistrict in the calculation of the annual Groundwater Withdrawal Fee as described under paragraph 4.2.2 above. If a decreed plan for augmentation does not address the need to achieve and maintain a Sustainable Water Supply in the Confined Aquifer System, the land will remain Subdistrict Land and will be subject to Annual Service and User Fees to fund Sustainable Water Supply efforts of the Subdistrict and groundwater withdrawals may be regulated by the Subdistrict in the same manner as other Subdistrict Wells.

4.2.3.4 As stated in paragraph 2.4.6, above, it is not the intent of the Subdistrict to allow or assist in the expansion of historical consumptive use of groundwater above that currently existing under valid permits or decrees. The Board of Managers has discretion over the use of the Subdistrict's Plan or ARP as a means for replacement for any groundwater withdrawals that are not caused by Subdistrict Wells.

4.2.3.5 Subdistrict Lands receiving benefits from Subdistrict Wells that become fully augmented by a court-approved plan for augmentation, which includes all Post Plan Injurious Stream Depletions and the achievement and maintenance of a Sustainable Water Supply in the Confined Aquifer, after they have been included in the Subdistrict will no longer be subject to Annual Service and User Fee assessments and will be classified as Non-Benefitted Subdistrict Lands for all Subdistrict purposes.

4.2.4 Contract Wells

4.2.4.1 To the extent permitted by law, and in accordance with Rules and Regulations adopted by the Subdistrict and approved by the District, the Subdistrict may recommend and request that the Board of Directors of the District contract with Non-Exempt Well owners. Rules and Regulations adopted for this purpose provide that the Subdistrict Board of Managers may only contract with well owners to include wells in the Subdistrict if the impacts from the wells can be determined using the methodology the Subdistrict will use to calculate stream depletions from Subdistrict Wells, or otherwise have an approved alternative method of calculating injurious stream depletions, and the inclusion of the well will not alter the location of the ARP's replacement obligations and that any contract to include a well in the Subdistrict's ARP will include provisions to comply with all Sustainable Water Supply requirements of the Groundwater Rules.

4.2.4.2 Such contracts may be subject to a contract fee. This contract fee would be in addition to any Annual Service and User Fees the Subdistrict may assess based on terms outlined in each individual contract. Contract Wells may be assessed an annual Administrative Fee and/or Groundwater Withdrawal Fee amount different than those assessed to Subdistrict Wells.

4.2.4.3 Additional terms and conditions may be included in contracts if the Board of Managers deems it necessary or desirous to meet the goals of the Subdistrict.

4.2.4.4 As stated in paragraph 2.4.6, above, it is not the intent of the Subdistrict to allow or assist in the expansion of historical consumptive use of groundwater above that currently existing under valid permits or decrees. The Board of Managers has discretion over the use of the Subdistrict's Plan of Water Management or ARP as a means for replacement for any groundwater withdrawals that are not caused by Subdistrict Wells.

4.2.5 Appeal Procedures

In order to ensure that all Subdistrict Members and Contract Well owners receive fair and equal treatment, the Board of Managers will consider appeals by such Subdistrict Members and Contract Well owners who believe the Annual Service and User Fees are 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 of Managers. If it is determined that an error was made, an adjustment will be made to correct the current calculation of the Annual Service and User Fees in cases where the fees have not yet been certified to the County for placement on the tax roll. If the fees have already been certified to the County, the Board of Managers will allow a refund in an amount equal to the error. The Board of Managers will adopt Rules and Regulations to govern the appeal process, including time limits on the

ability to file an appeal; in the absence of such Rules and Regulations, the provisions of the Colorado Administrative Procedures Act will apply.

5.0 ANTICIPATED BENEFITS

5.1 Subdistrict Benefits

Anticipated benefits to Subdistrict Members because of the implementation of the Plan include:

- 5.1.1 Remedy injury to senior surface water rights;
- 5.1.2 Prevent unreasonable interference with Colorado's obligations under the Rio Grande Compact;
- 5.1.3 Stabilization of the groundwater levels and pressures consistent with historical levels and pressures;
- 5.1.4 Achieve and maintain a Sustainable Water Supply for Subdistrict Wells;
- 5.1.5 Economic support for landowners who withdraw land from irrigation or decrease groundwater withdrawals; and,
- 5.1.6 Avoiding 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.

5.2 Benefits to the San Luis Valley

Compliance with the Groundwater Rules and the resulting stabilization of water levels within the Subdistrict will have broad benefits to the economy of the San Luis Valley as a whole including, but not limited to, maintenance of a Sustainable Water Supply which may enrich the vibrant agricultural community.

6.0 STATE OF COLORADO REPORTING REQUIREMENTS

6.1 Annual Replacement Plan

6.1.1 On an annual basis, as required under the Groundwater Rules, the Subdistrict must prepare and submit an ARP to the State and Division Engineers for approval. The report will detail Subdistrict operations for the ARP Year which runs from May 1st of the then current year to April 30th of the following year.

6.1.2 The ARP will include: a database of Subdistrict and Contract Wells that will be covered by the ARP; a projection of the groundwater withdrawals from Subdistrict and Contract Wells during the current Water Administration Year; the amount of Rio Grande Canal deliveries which will be included as an offset to gross Subdistrict and Contract Well groundwater withdrawals; a calculation of the projected stream depletions resulting from net groundwater withdrawals from Subdistrict and Contract Wells; a forecast of the flows for Division No. 3 streams; detailed information regarding the methods that will be utilized to replace or remedy injurious stream depletions during the ARP Year, including any contractual agreements used for replacement or remedy of injurious stream depletions that will be in place; any information regarding the fallowing of Subdistrict Lands; information to document progress towards achieving and maintaining a Sustainable Water Supply; and, documentation that sufficient funds are or will be available to carry out the operation of the ARP.

6.1.3 The State Engineer must approve the ARP for Subdistrict Wells to be allowed to continue making groundwater withdrawals in any Water Administration Year. The State Engineer will only approve the ARP if the Subdistrict has provided sufficient evidence and engineering analysis to predict when and where stream depletions will occur and how the injurious stream depletions will be replaced or remedied.

6.2 Annual Report

6.2.1 Preliminary Annual Report

6.2.1.1 On an annual basis, as required by the Groundwater Rules, the Subdistrict must submit a preliminary report to the State and Division Engineers analyzing the operation of the then current ARP. The Subdistrict will prepare this analysis utilizing actual data for any and all information which was a prediction in the ARP.

6.2.2 Final Annual Report

6.2.2.1 On an annual basis, as required under the Groundwater Rules, the Subdistrict must submit a final report to the State and Division Engineers analyzing the operation of the previous ARP. This final report will finalize the analysis that was completed in the preliminary annual report.

6.2.2.2 The analysis included in the annual report will enable the State and Division Engineers, as well as other interested parties, to review and evaluate the effectiveness of the Subdistrict's ARP on an annual basis. It also enables the Subdistrict to assess the effectiveness of its operations on an annual basis.

7.0 BUDGET AND ACCOUNTING PLAN

7.1 The Board of Managers will prepare and submit a detailed annual budget for the ensuing Calendar Year to the District's Board of Directors for review and approval. The Subdistrict will post notice of the annual budget prior to the Board of Manager's meeting to review and submit the annual budget to the District Board of Directors to allow for public comment from Subdistrict Members. Once approved by the District Board of Directors, the Subdistrict's annual budget will be included in the District's annual budget which is approved and submitted to the

State of Colorado. The annual budget process is further defined in the Rules and Regulations for Subdistrict No. 5.

7.1.1 The annual Subdistrict budget will include detailed descriptions of the activities to be undertaken in the Calendar Year for the purpose of operating and administering the ARP and this Plan and details of the amount and type of revenues that are required to fund these budgeted expenditures.

7.1.2 The annual Subdistrict budget will contain a detailed description of the anticipated expenditures for operation of the ARP and this Plan, including: expenses for the lease, loan or purchase of water or water rights to be used to replace or remedy injurious stream depletions; expenditures for contracts to replace or remedy injurious stream depletions; expenses for any Subdistrict programs set up by the Board of Managers to reduce the overall withdrawal of groundwater from Subdistrict Wells; any amounts necessary to establish a reserve fund; and, itemized administrative expenses for the ensuing year.

7.1.3 The annual Subdistrict budget will contain a detailed description of the anticipated revenues necessary to fund the annual budget including details regarding the assessments for the annual Administrative Fee and Groundwater Withdrawal Fee.

7.1.4 The Subdistrict will limit the expenditures and revenues to the amounts specified in the annual budget unless an amended budget is adopted, after proper notice, in accordance with the provisions of Colorado Law.

8.0 ANNUAL OPERATIONAL TIMELINE

8.1 The following identified Subdistrict activities occur on an annual basis.

8.1.1 Farm Plan Updates

Farm Plans are used by the Subdistrict to identify which Subdistrict Member owns and/or manages Subdistrict Lands and Wells. Information recorded in the Farm Plan is utilized during the Subdistrict's fee calculation process to direct where the Annual Service and User Fees should be allocated. Requests for updates to Farm Plans will be mailed to each Owner and/or Manager of a Farm Plan on record with the Subdistrict on an annual basis. Further definition of the Farm Plan and the process to update it is included in the Rules and Regulations for Subdistrict No. 5.

8.1.2 Submittal of Groundwater Withdrawals From Wells Not Required To Be Metered

Any Subdistrict Member who owns and/or manages a Subdistrict or Contract Well that is not required to be metered under the State's Measurement Rules must have an alternative method of measurement approved by the Subdistrict and the State before any groundwater withdrawals occur. Any Subdistrict Well groundwater withdrawals for the prior Water Administration Year that are being measured by an approved alternative method of measurement must be submitted to the Subdistrict each year. The process for securing an approved alternative method of measurement for these types of wells will be defined in the Rules and Regulations for Subdistrict No. 5.

8.1.3 Annual Subdistrict Fee Calculation Process

During the annual fee calculation process, the Subdistrict will download the records kept by Division No. 3 to calculate groundwater withdrawals for each Subdistrict or Contract Well for the previous Water Administration Year. The Subdistrict will use the State's records, along with the withdrawals reported to the Subdistrict in paragraph 8.1.2 above, to calculate the Net

Groundwater Withdrawals that will be used to calculate the annual Groundwater Withdrawal Fee for each Subdistrict or Contract Well as described in paragraph 4.2.2 above.

The Subdistrict will also review the status for each Subdistrict or Contract Well during the prior ARP Year for purposes of calculating the Administrative Fee as described in paragraph 4.2.1 above.

8.1.4 Appeal of Subdistrict Calculations

The Subdistrict will mail out a notice to each Subdistrict Member and Contract Well owner when the fee calculation process is complete. Notices will identify the Net Groundwater Withdrawals and the well status that will be used by the Subdistrict for assessing the Annual Service and User Fees. Subdistrict Members and contractors will be allowed sufficient time to contact the Subdistrict to review this information and appeal if necessary. Appeals must be made to the Subdistrict in the manner defined in the Rules and Regulations for Subdistrict No. 5.

8.1.5 Certification of the Annual Service and User Fees

The Subdistrict will ask for current ownership records for all Subdistrict Lands from the County Assessor during the annual fee calculation process. All Annual Service and User Fees will be assessed to the then current owner of the Subdistrict Land. All Annual Service and User Fees will be certified to each County Treasurer in every County which encompasses Subdistrict Land. Contract wells will be assessed per the agreement in each individual contract.

8.1.6 Subdistrict Annual Budget

During the process for preparing the annual Subdistrict budget the Board of Managers will project all expenditures required in the ensuing Calendar Year to operate the ARP and this Plan and those revenues necessary to fund these expenditures. The Subdistrict's annual budget will be submitted for approval as described in paragraph 7.1 above.

8.1.7 Preliminary Annual Report

The preliminary annual report for the current ARP Year will be submitted to the State and Division Engineers in accordance with the Groundwater Rules. The Subdistrict will post the preliminary annual report on the District's website.

8.1.8 Final Annual Report

The final annual report for the prior ARP Year will be submitted to the State and Division Engineers in accordance with the Groundwater Rules. The Subdistrict will post the final annual report on the District's website.

8.1.9 Annual Replacement Plan

The Annual Replacement Plan for the Subdistrict will be submitted to the State and Division Engineers in accordance with the Groundwater Rules. The Subdistrict will submit notice as required by the then current laws of Colorado and any other then current rules and regulations prior to the Subdistrict and the District's consideration of the Annual Replacement Plan. The ARP will be posted to the District's website.

8.1.10 Subdistrict Replacement Operations

The Subdistrict will begin replacing and/or remedying injurious stream depletions, to include any Post-Plan Injurious Stream Depletions accruing to any stream from prior Subdistrict and Contract Well withdrawals, following the approval of the first ARP in accordance with the Groundwater Rules and continuing for each ARP Year thereafter.

9.0 SUBDISTRICT GOVERNANCE

The Subdistrict is a political subdivision of the District. A five-member Board of Managers has been selected in the manner provided for in the Petition for Establishment of Special Improvement District No. 5 of the Rio Grande Water Conservation District (Petition for

Establishment), as approved by the District Court in and for Saguache County, Case No. 2017CV30015, December 18, 2017, and will govern the Subdistrict. Future appointments to the Board of Managers will be in accordance with the procedures set out in the Petition for Establishment. The Board of Managers adopted by-laws, which were approved by the District's Board of Directors, to outline the roles and responsibilities of the Board of Managers.