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Groundwater Conservation Easements for Aquifer Recovery in the San Luis Valley

Rio Grande Water Conservation District

San Luis Valley Water Conservancy District

Conejos Water Conservancy District

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Colorado Water Conservation Board
Department of Natural Resources

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Colorado Open Lands

Colorado Open Lands is a statewide land trust which has permanently conserved over 500,000 acres since 1981. Our commitment is to strategically conserve the state's critical land and water resources forever through creative conservation techniques and statewide conservation leadership. COL's work in the San Luis Valley is led by Judy Lopez, a long time resident and current Vice Chair of the Rio Grande Basin Roundtable.

Rio Grande Headwaters Land Trust

Rio Grande Headwaters Land Trust is a regional land trust that serves the entire San Luis Valley. RiGHT is committed to working with private landowners, public agencies, and other conservation organizations to preserve the natural beauty and wildlife habitat of the area and to promote a sustainable agricultural way of life.

Rio Grande Conservation District

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.

San Luis Valley Water Conservancy District

The San Luis Valley Water Conservancy District provides leadership to the San Luis Valley water community, a forum for learning and development, and the service of well augmentation in five counties in the San Luis Valley.

Conejos Water Conservancy District

The Conejos Water Conservancy District provides water services to approximately 100,000 acres in the Southern San Luis Valley.

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Groundwater Conservation Easements for Aquifer Recovery in the San Luis Valley

Executive Summary

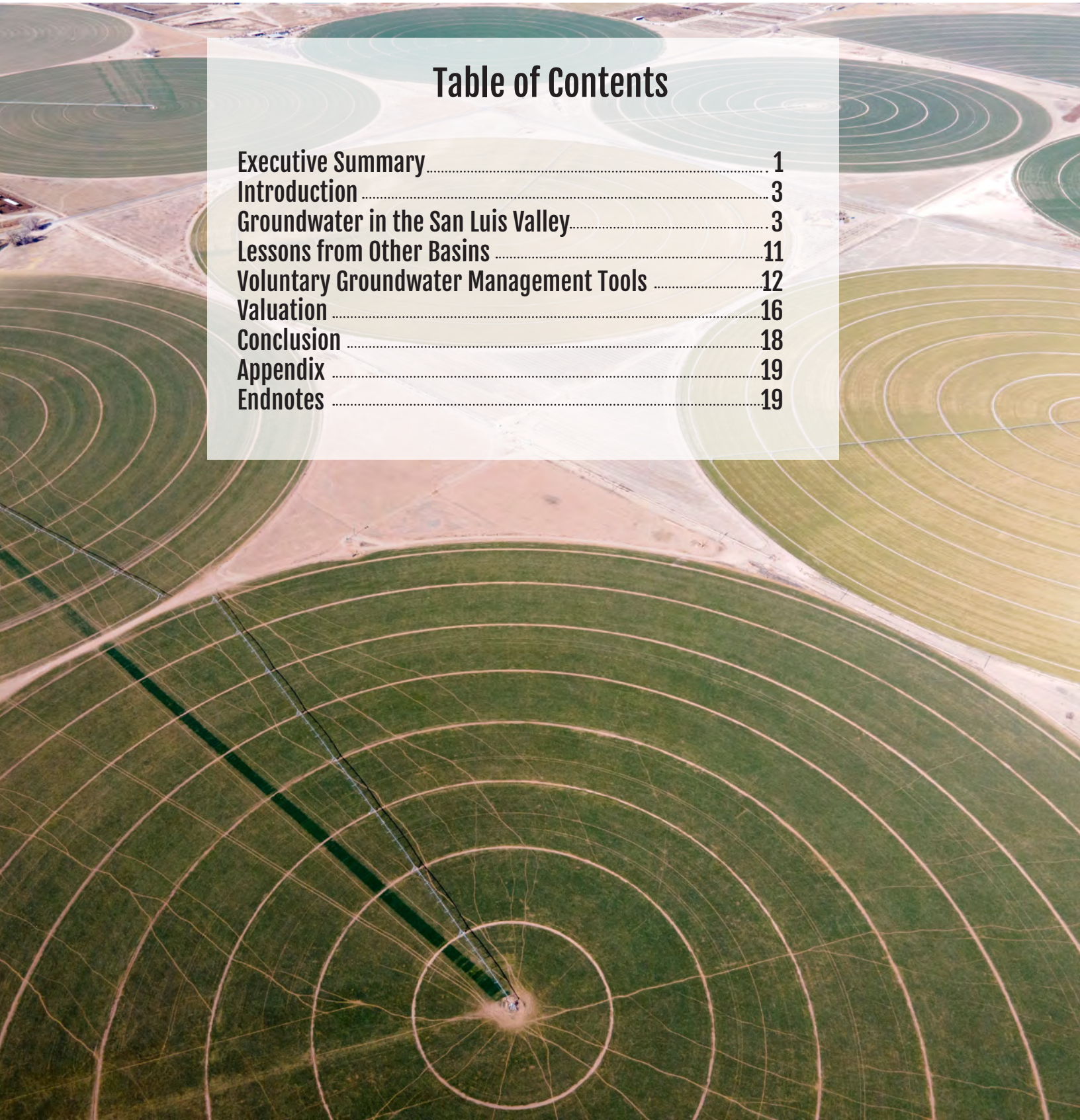
Groundwater depletion is a critical issue in Colorado's south-central San Luis Valley; groundwater pumping for irrigation beyond the recharge capacity of the basin is causing injurious depletion to senior surface water rights holders and may be impacting riparian ecosystems. In the San Luis Valley, irrigated agriculture is important because it drives the majority of the region's economic activity and creates food sources and habitat for migrating birds and wildlife.

To avoid direct state intervention in the form of well shutdowns, irrigators from six groundwater subdistricts of the Rio Grande Water Conservation District and one subdistrict of the Trinchera Water Conservancy District are participating in voluntary programs to reduce groundwater pumping. To achieve pumping reductions, the subdistricts currently utilize the Conservation Reserve Enhancement Program (CREP) and short-term fallow programs and drought contracts. However, in the context of recent droughts and given the necessary volume of recharge, the scale of these efforts is insufficient to achieve basin sustainability as quickly as needed.

In 2018, Colorado Open Lands and the Rio Grande Headwaters Land Trust began conducting a groundwater pumping reduction feasibility study in collaboration with the Rio Grande Water Conservation District, San Luis Valley Water Conservancy District, and Conejos Water Conservancy District. This effort explored how traditional land conservation tools could be applied to groundwater pumping. The analysis was refined during working group discussions among land trusts, attorneys, appraisers, and groundwater subdistricts. Tools already in use, including CREP and drought contracts, were compared to additional tools such as a lease of nonuse, the purchase of partial undivided interest in a water right or well permit, a covenant on the use of water, and a conservation easement. These tools vary in their longevity, enforceability, basis in law, administration, value, enforcement mechanisms, and funding sources. Conservation easements, in particular, are eligible for unique funding sources — including state and federal tax benefits — and represent perpetual groundwater conservation. The working group developed and analyzed a conservation easement model that specifically restricts groundwater pumping. Research and expert interviews with groundwater managers in overdrafted basins in Nebraska and California revealed the functionality of conservation easements when applied to groundwater and affirmed the economic value of groundwater. Groundwater conservation easements are one important instrument within a larger suite of voluntary tools that groundwater subdistricts in the San Luis Valley can use to reduce groundwater pumping while maintaining community vitality.

This report was written by Abbey Warner with contributions from Kevin McCarty and editing by Sarah Parmar.

It was reviewed by Judy Lopez, Peter Nichols and Allan Beezley.



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Introduction

Groundwater overdraft is a critical issue in Colorado's San Luis Valley, where groundwater pumping for irrigation beyond the recharge capacity of the Rio Grande Basin impacts surface water rights holders. At the same time, both the local economy and the ecological health of the region rely on agricultural groundwater use. To self-regulate groundwater use, six groundwater subdistricts of the Rio Grande Water Conservation District (RGWCD) and one subdistrict of the Trinchera Water Conservancy District were formed. If irrigators in the San Luis Valley are not able to recharge the two aquifers to the level mandated by the state, then the State Engineer will likely shut down wells.

To support the work of the groundwater subdistricts, a feasibility study was conducted to evaluate the needs of irrigators in the San Luis Valley and additional voluntary tools, including a conservation easement, that could be used to achieve reductions in groundwater pumping. This analysis was conducted through stakeholder outreach and input, interviews with groundwater managers in overdrafted basins, legal and valuation analysis, and working group meetings. The purpose of this report is to summarize the main findings of the feasibility effort.

Groundwater in the San Luis Valley

For water users in arid geographies facing variable climate conditions, groundwater is generally considered more "drought-proof" than surface water and thus represents a valuable source for drinking water and irrigation. Currently, rural agricultural communities across the western United States are struggling to cope with the reality of decades of groundwater overextraction and increased urban water demand for municipal and industrial uses. Groundwater depletion, defined as declines in water level over long timescales created by sustained pumping, has been increasing in the United States since 1950, particularly in the Southwest and High Plains region.[i] Groundwater overextraction is a concern because it can lead to land subsidence, declining water tables, surface water impacts, water quality degradation, loss of storage capacity, and increased pumping costs.[ii]

One region currently facing such pressures is the San Luis Valley, Colorado, where surface water and groundwater support agricultural, industrial, municipal, and environmental uses through a complex system of water rights. Much of the local economic activity - farming, ranching, and tourism - is heavily dependent on water, as is the local ecology. The region receives less than eight inches of precipitation each year and averages 7,500 feet in elevation. Water that falls in the mountains ringing the San Luis Valley – the San Juan Mountains to the west and the Sangre de Cristo range and Culebra Mountains to the east – seeps into two groundwater aquifers and feeds the streams and rivers, including the headwaters of the Rio Grande.[iii] *Figure 1* is a map of the Colorado portion of the Rio Grande Basin.[iv]

Figure 1: Map of the Colorado portion of the Rio Grande Basin

The San Luis Valley is home to a vibrant agricultural community that drives the region's economy, supporting 70 percent of local income and worth approximately $300 million per year.[v] The climatic conditions are especially well-suited to potato, barley, and alfalfa production. The San Luis Valley is the second-largest potato growing region in the United States, and most of the barley grown there is purchased by Molson Coors Beverage Company and other brewers.[vi] Groundwater is a precious resource in the San Luis Valley, and involuntary curtailment of use for irrigated agriculture would negatively impact the local economy and community vitality. Already, the median household income in the San Luis Valley is much lower than that of the average household in Colorado – 60% lower in 2010.[vii] In 2013-2014, the child poverty rate was twice the child poverty rate across the state.[viii] Water underpins the agricultural economy in the San Luis Valley and its regulatory restriction would pose grave socioeconomic challenges for the community.

Similarly, the ecological health of the San Luis Valley relies upon surface water and groundwater resources. Wetlands and riparian areas provide a number of essential functions, from pollutant filtration and flood attenuation to erosion control and aquifer recharge.[ix] In Colorado, it is estimated that over 80% of species require wetlands and riparian zones during some point in their lifecycle.[x] Both ecosystems provide important habitat and food sources for wildlife and aquatic species. The unique habitat of the San Luis Valley serves as an important stopping point along migratory bird flyways, including that of sandhill cranes. This area is a priority landscape across several national bird conservation plans.[xi] Its crucial water-reliant ecosystems are intertwined with agricultural practices in the San Luis Valley, where the majority of wetlands occur on private property and are often irrigated meadows or sloughs used for irrigation water delivery. Agriculture in the San Luis Valley has impacted the local hydrologic regime in a complex way; while drought, groundwater overdraft, and irrigation development have negatively impacted aquatic ecosystems by reducing seasonal flows, complete cessation of pumping and fallowing of fields may actually harm wildlife by reducing the irrigation water that is currently contributing to these natural ecosystems. In fact, grain production and irrigation development in the San Luis Valley have likely impacted waterfowl and sandhill cranes positively.[xii] Thus, addressing groundwater depletion requires creative solutions in order to maintain resource availability for wildlife.

The Aquifers

There are two groundwater aquifers in the San Luis Valley, one stacked on top of the other. The upper aquifer is a 30-100-foot-thick unconfined aquifer, recharged by precipitation, streamflow, canals, and agricultural return flows. The vast majority of well water used for agriculture in the San Luis Valley (85%) comes from the unconfined aquifer.[xiii] The northern part of the unconfined aquifer is an endorheic basin known as the Closed Basin because it does not drain into the Rio Grande.[xiv]

The second and lower aquifer is a confined aquifer under artesian pressure, separated from the unconfined aquifer by blue clay and basalt. The confined aquifer is recharged around the edges of the San Luis Valley. *Figure 2* illustrates the hydrologic dynamics of the two aquifers[xv] and *Figure 3* shows their boundaries.[xvi]

Figure 2: San Luis Valley aquifer dynamics

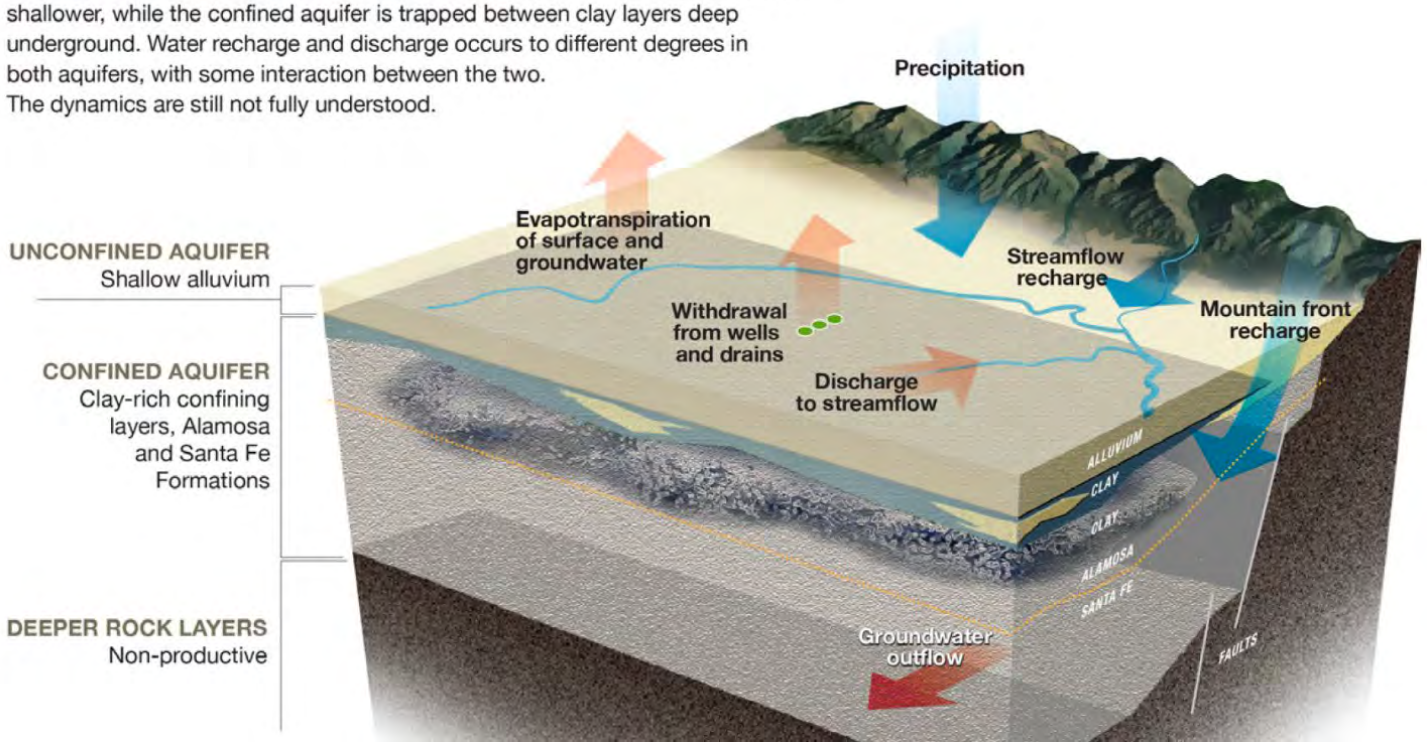
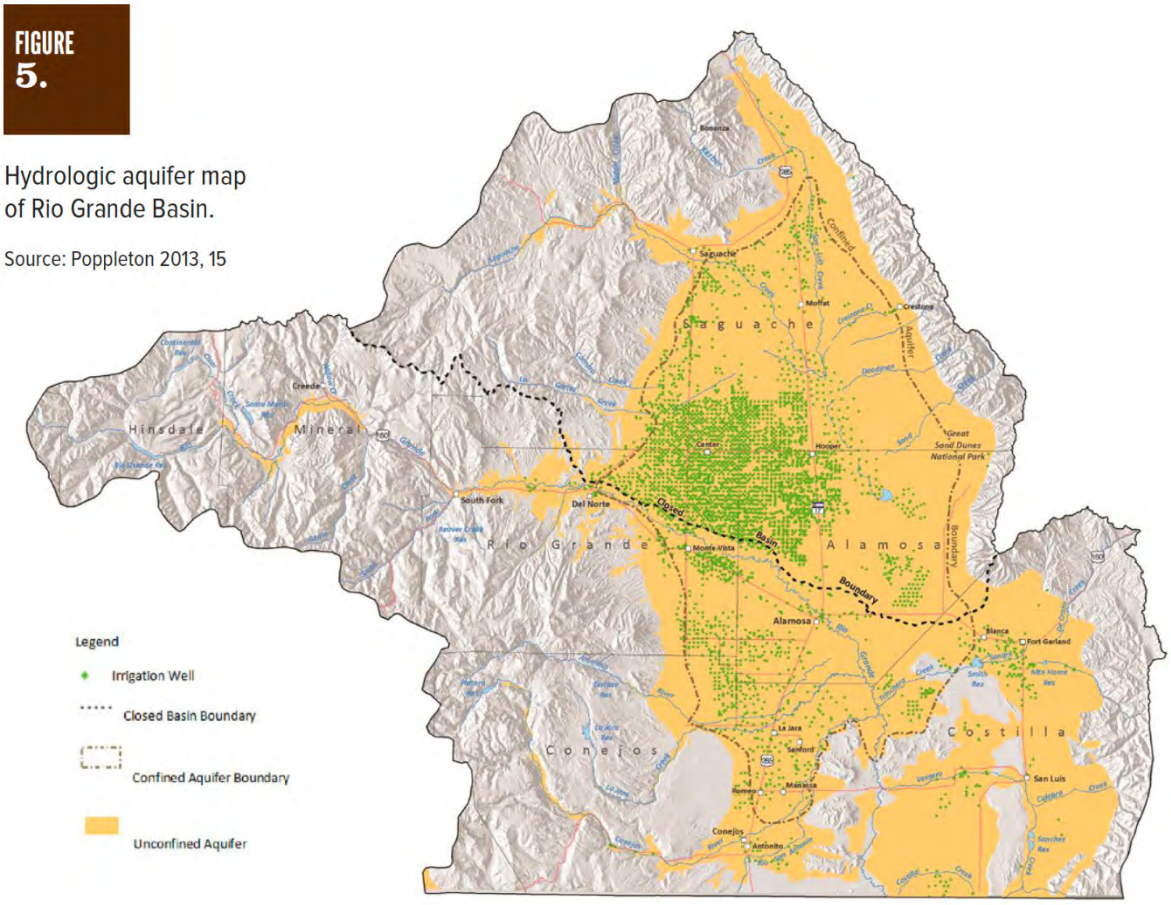


Figure 3: Hydrologic aquifer map of the Colorado portion of the Rio Grande Basin



Groundwater Development and Threats to Aquifer Sustainability

Surface water development for irrigation in the San Luis Valley expanded during the second half of the 19th century. By the start of the 20th century, all of the streams in the basin were over-appropriated. Consequently, groundwater development of the confined aquifer began in 1887 and the first irrigation well in the unconfined aquifer was drilled in 1903. By 1972, there were thousands of wells in the San Luis Valley and the State Engineer announced a moratorium on the issuance of well permits for new groundwater appropriations within the confined aquifer and the part of the unconfined aquifer outside of the Closed Basin. In 1981, the State Engineer placed a moratorium on the issuance of well permits for new groundwater appropriations in the Closed Basin3.[xvii] Agricultural producers in the San Luis Valley today continue to rely on groundwater for irrigation, and as a result both aquifers have been over-pumped to unsustainable levels.

Aquifer sustainability occurs when "withdrawals from the aquifer match recharge to the aquifer from all sources so that mining of the aquifer is not occurring on a long-term basis," as defined by the Rio Grande Water Conservation District.[xviii] Starting in 1998, the State Engineer and Colorado Water Conservation Board created the Rio Grande Decision Support System (RGDSS) groundwater model to collect data about the aquifers, evaluate the hydrology of the region, and inform management decisions.

In 2002, a severe drought hit Colorado. The resulting decrease in streamflow prompted a heavier reliance on groundwater without corresponding natural recharge, causing decreases in both groundwater and surface water levels. This prompted new laws for the protection of surface water and groundwater resources. The Colorado General Assembly enacted SB 04-222, which added a new subsection to the statutes governing the use of underground water in the Rio Grande River Basin. This new law gave Colorado's State Engineer "wide discretion to permit the continued use of underground water consistent with preventing material injury to senior surface water rights" while ensuring sustainable groundwater supplies in both aquifers, fluctuations in the artesian pressure of the confined aquifer within a certain range, and no unreasonable interference in the state's ability to fulfill its obligations under the Rio Grande Compact.[xix]

In order to protect senior surface water rights impacted by injurious groundwater withdrawals, six groundwater subdistricts of the Rio Grande Water Conservation District and one within the Trinchera Water Conservancy District were established to allow for self-regulation of groundwater use for irrigation.[xx] Formation of the subdistricts allows for self-governance in order to avoid state intervention, which would ultimately cause the shutdown of a majority of wells. The Districts' well permit holders have the option to join a groundwater management subdistrict, create their own well augmentation plan, or cease pumping. The seven subdistricts were delineated based on similarity in community interest and hydrology.[xxi] *Figure 4* is a map of the RGWCD Subdistricts[xxii] and *Figure 5* provides more information about each subdistrict.

Figure 4: Rio Grande Water Conservation District Subdistricts map.

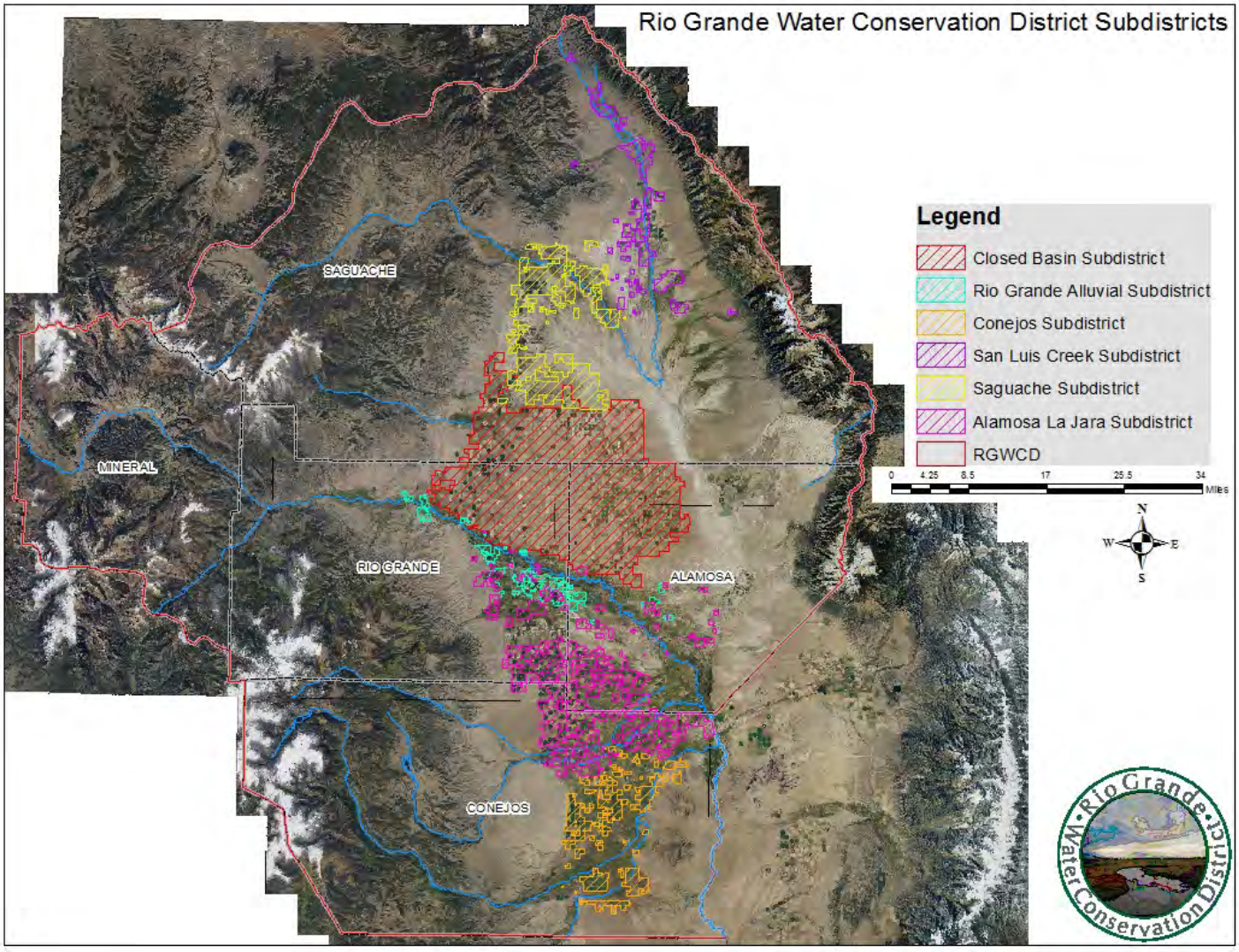


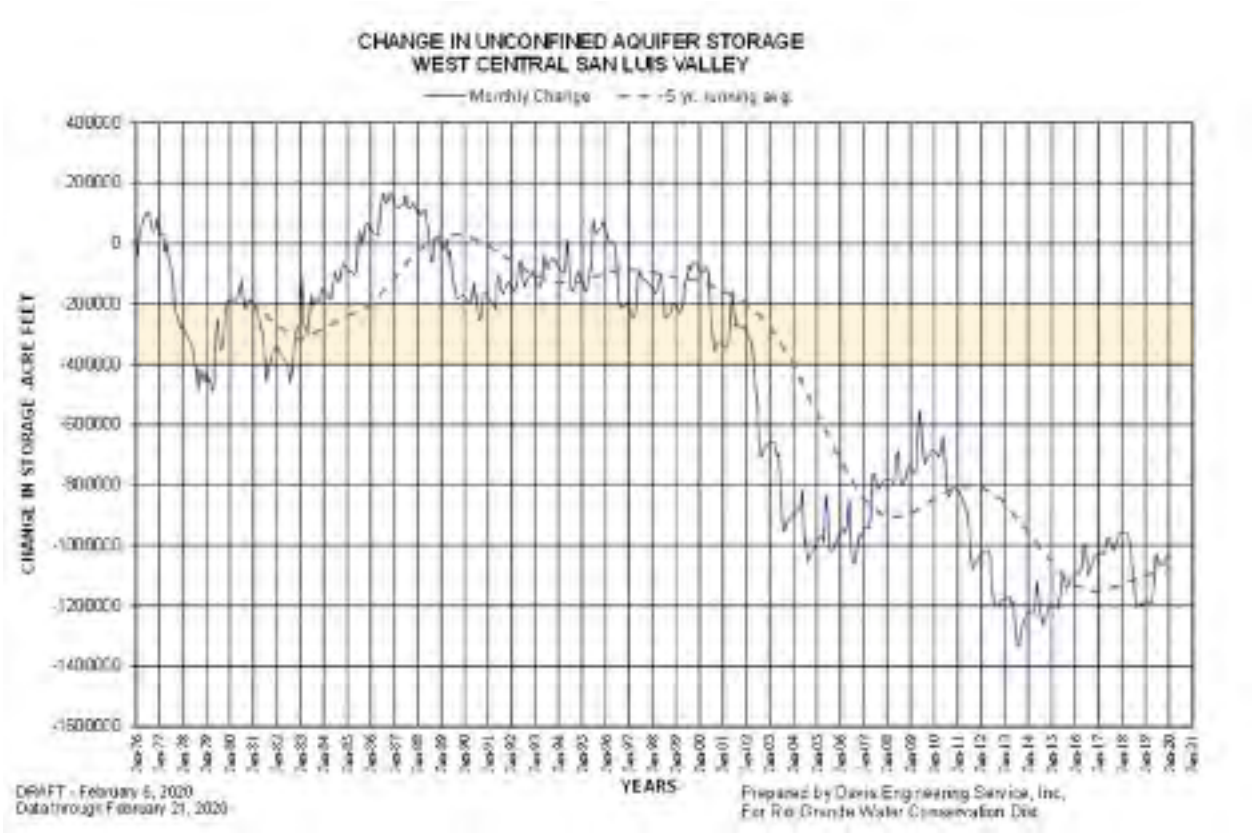
Figure 5: Groundwater Subdistricts in the San Luis Valley as of July 28, 2020

Subdistrict	Established	Annual Replacement Plan (ARP) Status	Wells
1 (Closed Basin)	2006	Operating under approved ARP since 2012	3,481
2 (Rio Grande Alluvial)	2016	Operating under approved ARP since 2019	244
3 (Conejos)	2017	Operating under approved ARP since 2019	158
4 (San Luis Creek)	2017	First ARP must be approved by March 15, 2021	100 petitioned
5 (Saguache)	2017	First ARP must be approved by March 15, 2021	180 petitioned
6 (Alamosa-La Jara)	2018	First ARP must be approved by October 1, 2020	443 petitioned
Trinchera	2008	First ARP must be approved by March 15, 2021	151 petitioned

Sources: Rio Grande Basin Implementation Plan, State of the Basin Symposium 7/28/20, RGWCD website

If the subdistricts are unable to reach sustainable levels of groundwater through voluntary programs, then the State Engineer will likely impose limitations on the use of wells. For heavily irrigated Subdistrict 1, located in the Closed Basin to the north of the Rio Grande, achieving recovery of the unconfined aquifer by 2031 means reaching between 200,000 and 400,000 acre-feet below the aquifer storage volume projected to exist in 1976.[xxiii] Unfortunately, the 2002-2003 drought and recent dry years have led to a decreasing trend in storage (see *Figure 6* below[xxiv]), and Subdistrict 1 would need to average 82,786 acre-feet year-1 in net groundwater recharge to meet its goal. While less heavily irrigated than Subdistrict 1, the other subdistricts also have Annual Replacement Plans that are approved, or are in the process of being approved, by the State Engineer in order to bring groundwater use into balance.

Figure 6: Change in Unconfined Aquifer Storage in West Central San Luis Valley (Subdistrict 1) with the goal for 2031 shaded in yellow.



An additional threat facing water users in the San Luis Valley is the potential for groundwater export to the growing Front Range urban corridor. In the late 1980s, American Water Development, Inc., (AWDI) purchased the Baca Ranch with plans to pump 200,000 acre-feet of water each year out of the confined aquifer to serve the growing Front Range metro area. Citizens for San Luis Valley Water and a coalition of opponents to the plan fought AWDI in court until 1994, when the Colorado Supreme Court upheld a district court ruling that the pumping would harm shallow aquifers and surface water rights. The Baca Ranch was then sold to the founder of Stockman's Water, whose plan to send 150,000 acre-feet year-1 of water to the Front Range was also unsuccessful. More recently, the company Renewable Water Resources has made clear its plan to pipe 20,000 acre-feet year-1 to the Denver metro area.[xxv]

Voluntary Aquifer Recharge Efforts

Amidst the challenge of declining aquifer levels, variable climate change impacts, and a history of speculative water export proposals, the groundwater management subdistricts and producers in the San Luis Valley have implemented several key efforts to restore the aquifers. Efforts include self-taxation to incentivize reduced pumping and the establishment of funds to pay landowners to voluntarily cease irrigation. For example, in 2012 Subdistrict 1 started charging pumping fees and fallowed 8,300 acres.[xxvi] In 2020, there were over 13,000 acres enrolled in conservation programs in Subdistrict 1.[xxvii]

Programs in the San Luis Valley that pay producers to fallow land in order to curtail pumping include the Colorado Rio Grande Conservation Reserve Enhancement Program (CREP) and fallow or drought contracts. The U.S. Department of Agriculture's Farm Services Agency and Subdistrict 1 of the RGWCD fund and run the CREP program, which pays enrolled farmers annually to fallow their land under a 15-year contract.[xxviii] CREP was authorized in 2012 for $140 million and 40,000 acres across parts of Alamosa, Rio Grande, and Saguache counties.[xxix] In addition the RGWCD also implements a fallow program and drought contracts which are short-term commitments to the RGWCD, typically used in very dry years to appeal to landowners who are interested in fallowing for a season but are unwilling to commit to fallowing in the long term. For example, the 2021 Fallow Program allows irrigators to fallow 1, 2, or 4 field(s) for 4, 2, or 1 year(s), respectively.[xxx] The contract value is $200 for each acre previously irrigated by center pivot sprinkler and $144 for each acre previously irrigated by flood irrigation. These existing mechanisms – CREP and fallow or drought contracts – focus on dry-up of land. As intended, this prevents groundwater extraction during the contract period. However, neither option creates a perpetual savings of groundwater nor allows the producer to use their water to farm under reduced irrigation across the acreage enrolled in the program.

Despite these proactive and collaborative measures to restore the aquifer, a significant gap remains and the new export threat looms. Against this backdrop, there is a need to create new opportunities for landowners while providing tools to the groundwater subdistricts to address groundwater overdraft.

Feasibility Study

In 2018, Colorado Open Lands and the Rio Grande Headwaters Land Trust, two Colorado non-profit land conservation organizations focused on land and water conservation in the San Luis Valley, began conversations with the Rio Grande Water Conservation District, San Luis Valley Water Conservancy District, and Conejos Water Conservancy District to explore whether and how traditional land conservation tools, especially conservation easements, might be modified to focus on groundwater depletion. A feasibility effort was funded by the Colorado Water Conservation Board and a consortium of conservation funders facilitated by the State Board of the Great Outdoors Colorado Trust Fund, a quasi-governmental state entity. This project involved researching other groundwater basins to understand whether and how conservation easements had been used to address groundwater overdraft; stakeholder outreach to the subdistricts and a variety of producers to identify the factors that would make additional tools successful; and legal and valuation analysis of the conservation easement and other potential tools. The project team relied throughout on a working group of land trusts, attorneys, appraisers, and subdistricts to provide feedback and help refine the tool analysis.

The stakeholder meetings revealed general consensus on several needs for a conservation easement-based tool: provide flexibility to producers by allowing percentage reductions across a farming operation and allowing rotation of conserved water through the farm; act as a permanent or long-term part of the solution; and augment the funding source that subdistricts provide to incentivize fallowing. Using conservation easements to restrict groundwater usage would allow producers to reduce crop acreage in order to keep other fields in irrigation, and would provide them the flexibility to choose where and how to continue farming.

Lessons From Other Basins

Since groundwater management is a challenge in many regions across the United States, surveying the current state of voluntary groundwater management tools used in other basins may provide lessons that are applicable to the San Luis Valley. While the specifics of groundwater challenges vary across basins, there were commonalities in management experiences identified for basins in Nebraska, California, and Colorado. In general, conservation easements were shown to be an effective and enforceable tool, and groundwater nonuse was shown to be valuable in a market context.

In Nebraska's Central Platte basin, the Central Platte Natural Resource District (CPNRD) utilizes two main tools – CREP and conservation easements – to manage groundwater use with the primary goal of protecting endangered and threatened species that rely on the Platte River and its ecosystems by maintaining instream flow requirements during the irrigation season. The aquifer itself is generally above pre-development level due to adequate precipitation and a short growing season. The CPNRD utilizes the Farm Service Agency's CREP to enroll producers in temporary fallowing.

In addition, the district has acquired more than 30 perpetual conservation easements to retire groundwater wells, with parcels consisting of about 160 acres each. In general, the experience of the CPNRD has been that landowners will approach the district with interest in putting their land under easement, often as a result of low corn prices. The district then negotiates the value of the easement based on agricultural land values and proximity to the Platte River. Easements are funded by the district itself as well as state lottery funds, not by tax incentives. During the easement process, the county and zoning commissions must also approve the easement. Producers tend to grow grass or dryland corn once the conservation easement has been placed on their property, and the district provides a list of acceptable crops. To date, the CPNRD has not faced any enforcement issues.

In 2014, the state of California passed the Sustainable Groundwater Management Act (SGMA) to create a framework for groundwater management. SGMA requires priority groundwater basins to halt groundwater overdraft and come to balanced levels of groundwater pumping and recharge.[xxxi] This regulatory shortage incentivizes producers in medium and high priority basins to seek innovative solutions to their water supply challenges. In addition, the value of land in overdrafted groundwater basins increasingly reflects water availability and reliability of supply.[xxxii] In the "critically overdrafted" Oxnard basin in western Ventura County, pumping amounts may need to decrease as much as 35% to meet the sustainable yield for the basin as mandated by SGMA.[xxxiii] At requests from growers in the region, the Fox Canyon Groundwater Management Agency (FCGMA) collaborated with The Nature Conservancy, California Lutheran University's Center for Economic Research and Forecasting, and the Farm Bureau of Ventura County to design a groundwater market for groundwater users to trade allocations. Growers indicated that in the absence of a water market, having to fallow in order to comply with groundwater allocations for the basin would have negative financial impacts.

The market uses a cap-and-trade model with fixed groundwater allocations for each well. The groundwater allocations are set according to historic use and sum to the sustainable yield cap requirement. Allocations were determined in this manner because a market requires defined and transferable allocations to function well. Previously, FCGMA used efficiency-indexed allocations that correspond to crop type. Under the two pilot phases of the market, producers could opt in to using "fixed" allocations to participate in the market.[xxxiv] Participants have the ability to sell unused water allocations, and users (including non-allocation holders) can lease water allocations, though not on a permanent basis due to land use change concerns. To give groundwater users time to transition to the sustainable yield, FCGMA chose a ramp-down approach to reduce each user's allocation gradually over 20 years. The financial incentive to reduce groundwater use may motivate producers to switch to crops that require less water or update their irrigation technology. FCGMA provided additional flexibility to groundwater users by allowing unused water allocations to carry over, up to 100% of the individual's current annual allocation.

Planning began in 2016, and after pilot testing and iteration the market opened in March 2020. Preliminary results indicate several important enabling conditions: water scarcity, fixed groundwater allocations, agricultural stakeholder support, market design expertise, and capacity and funding availability.[xxxv] This producer-led effort to establish a groundwater market and the sales that have occurred so far demonstrate the clear value of groundwater to users, and the ability of growers to use their water rights to create alternative revenue streams. The Fox Canyon groundwater market can serve as a case study for other groundwater basins interested in reducing groundwater withdrawals while providing flexibility to producers.

Voluntary Groundwater Management Tools

To support the subdistricts in achieving the mandated aquifer recovery, the feasibility project explored an expanded set of tools to reduce groundwater pumping. Existing tools such as CREP and drought contracts were compared to new potential tools for restricting groundwater extraction (see Figure 7 below). Potential additional tools intended to reduce groundwater withdrawal include a lease of nonuse, the purchase of partial undivided interest in a water right or well permit, a covenant on the use of water, and a conservation easement.

Figure 7: Existing and Potential Tools to Effectively Reduce Groundwater Pumping

Tool	Administrator	Legal Defensibility	Agreement Duration	External Funding	Price/Value Determination	Enforcement Mechanism
CREP	Subdistrict/ RGWCD	High	Varies	Yes	Varies; based on whether term or perpetual and also based on location	FSA enforces; contract specifies repayment with interest, liquidated damages
Drought contract	Subdistrict/ RGWCD	High	1 year	No	Set by administrator or negotiated	RGWCD enforces; no penalty specified but enforceable under contract law
Lease of nonuse	Subdistrict/ RGWCD	High	Short term to long term	No	Set by administrator or negotiated	RGWCD enforces; enforceable
Purchase of partial undivided interest in water right/ well[a]	Subdistrict/ RGWCD	High	Perpetual	No	Set by administrator or negotiated	RGWCD enforces; enforceable
Covenant restricting use	Subdistrict/ RGWCD	Moderate[b]	Perpetual[c]	No	Could be set or negotiated price[d]	RGWCD enforces; established by lease terms
Conservation easement that restricts pumping	Land trust w/ subdistrict input	Moderate[e]	Perpetual[c]	Yes	Appraisal	Land trust enforces but could add enforcement rights for RGWCD; remedies include injuction and damages

[a]agreement sets out how the two owners share use/nonuse of water

[b]existing covenants, untested in court

[c]unless otherwise agreed upon

[d]appraisal used if seeking tax benefits

[e]high generally, but groundwater is a new use

Shaded regions of the table denote existing tools.

These tools differ in their administration, basis in law, agreement duration, funding sources, value determination, and enforcement mechanisms. Each program would be administered by the RGWCD and its associated subdistricts except for the conservation easement, which would be held by a land trust with input provided by the subdistrict. With the exception of the conservation easement, they would all be funded primarily by the subdistricts.

The *lease of nonuse* is a short-term agreement whereby the landowner agrees to lease groundwater to the RGWCD or subdistrict for a term of years which could be renewed. The leaseholder would not pump groundwater and would leave the water in the aquifer. The value of the water would be set at the offset, and could be adjusted or renegotiated at a certain point. The lease could be made long-term depending on the number of years specified.

Purchase of a partial undivided interest in a water right or well permit provides more security than a lease because ownership is easier to enforce than the terms of a lease, at least in perception. In addition, purchase of a partial undivided interest would be a perpetual solution as long as the buyer continues to hold the partial interest with the groundwater use restriction in mind. The amount specified could be a percentage of the right or a specific volumetric amount of water. One advantage of the undivided interest is that the landowner and subdistrict would each have the right to use the entire water right to the extent the other is not using their share, meaning that any water beyond what the landowner uses from their share could be left in the aquifer and used by the subdistrict to replace injurious stream depletions. A water use agreement would outline when the owner and purchaser each have the right to use their share of the water right or well permit as well as the operation and maintenance responsibilities.

A *covenant restricting the use of water* is similar to a conservation easement, but is based on the common law, rather than statute, like a conservation easement. A covenant may apply only to the water and not to the land, in contrast to a conservation easement that must encumber land in order to encumber water. To be legally enforceable, the (nonuse) covenant must be drafted to burden the property encumbered by the covenant and benefit a party benefited by the restriction (e.g. the subdistrict). Depending on whether the covenant is made long term with extensions of time and whether appropriate provisions were included, it could qualify for state and federal charitable income tax deductions, although not for Colorado conservation easement tax credits.

An *option agreement* or *right of first refusal* was not included within the table of tools but it could be combined with any of the other tools to give RGWCD or another rights holder the opportunity to enter into another agreement at a later date. This may be useful, for example, if there are properties that Renewable Water Resources is more likely to target for water exports and if the subdistrict would like to prevent that outcome.

The primary focus of the feasibility work was developing a *conservation easement* to restrict groundwater pumping on a parcel of land. The conservation easement is a legal tool that restricts certain uses of a property. In Colorado, conservation easements may include both land and water rights that have been put to beneficial use on that land. Traditionally, conservation easements have required continued historic use of the land and water (often irrigation) and protect the public benefit of the land and water rights. To address overuse of groundwater, however, the conservation easement would place restrictions on the use of groundwater related to the needs of the landowner to continue in agricultural operations and the subdistrict to reduce pumping. Restrictions on water use could be partial or complete, although working group discussions suggest that a 30% reduction would be the

minimum amount considered. In addition, each easement can be tailored to the specific operation in a way that supports the landowner and the subdistrict, and it may also protect other conservation values on the property. Requiring the creation of a linked management plan ensures that land management under a reduced irrigation scenario follows best practice in order to promote multiple benefits, such as soil health, wildlife habitat, agricultural production, and other conservation values.

During working group discussions regarding the feasibility and design of a conservation easement to restrict pumping, several options were considered for the structure of the restrictions. One key question was whether restrictions should be based on average groundwater pumping withdrawal or historical consumptive use. There was consensus that using historical consumptive use would be difficult to monitor and enforce, and that using the average pumping amount would also achieve the goal of leaving water in the aquifer with an easier enforcement mechanism (i.e., reading the well meter). In addition, producers have the ability to know what amount of water they are working with and choose how to use it on their property; practices such as switching crops or updating irrigation technology would not impact the amount of water they could use but could allow them to modify their agricultural operations in the future, such as in response to market forces.

Another point of discussion was whether to consider the on-farm average groundwater use or the decreed-for use amount of water on the well permit when conducting the "before" evaluation of the property value. While the latter might inhibit water export companies like Renewable Water Resources from attempting to use those wells to replenish the supplies that they would pump out of the basin, the former better addresses the working group's main goal of keeping the amount of water that would normally be pumped out of the aquifer within it to increase the groundwater level.

Finally, irrigators expressed the desire to be able to use more water if aquifer conditions improved over time. It is unlikely that conditions would improve to such an extent, particularly in the near future. One benefit of the conservation easement is its perpetual nature, which enables subdistricts and producers to be able to confidently conduct long term planning rather than facing unpredictable management scenarios.

In contrast to the other tools available to restrict groundwater pumping, the conservation easement model leverages multiple funding sources. In the San Luis Valley, this could include the Natural Resources Conservation Service, Great Outdoors Colorado, Colorado Water Conservation Board, foundations, federal tax deduction, and the Colorado income tax credit. For the landowner, incentives to place an easement on their property include both the partial purchase of a conservation easement (cash payment) and the donated value of the easement (tax benefits). The tax benefits available to landowners in Colorado include federal income tax deduction, federal estate tax reduction, federal estate tax exclusion, transferrable state income tax credit, and local assessment treatment. To qualify for any state or federal tax benefits (and most other funding sources as well), a conservation easement must be perpetual. Another benefit to utilizing the conservation easement model is that land trusts have access to insurance for legal fees incurred in the defense of an easement.

Under Colorado's conservation easement enabling statute, a conservation easement is the only legal tool that is statutorily permitted to be perpetually enforceable. In this context, the conservation easement would be monitored and enforced by the land trust. Land trusts have a variety of legal options available, such as injunction, to enforce the easement when a violation occurs. For this groundwater conservation easement, the working group will be including language that directs payment of liquidated damages if the landowner pumps against the permitted limit. If the violation is ongoing or particularly egregious, the subdistrict may remove the wells in

violation from its Annual Plan of Replacement that is submitted each year to the State Engineer. The Colorado Division of Water Resources has the right to then issue a cease-and-desist order to stop that well from pumping.

When implementing new tools to restrict groundwater pumping, it is crucial to ensure that water left in the aquifer by reduced pumping is not considered abandoned and that the water is not usable by another irrigator or water user. Colorado law considers a water right[1] to be abandoned when there is intent to permanently discontinue use of all or part of a water right , so there is a concern that the permanent restriction of the use of a water right for irrigation may lead to an interpretation of abandonment. In Colorado, the State Engineer has removed water rights from the abandonment list because of their inclusion in a conservation easement, which demonstrates an intent to keep the water rights intact. However, given that groundwater easements are specifying non-use of all or a portion of the groundwater, the working group agreed that it would be prudent for the Rio Grande Water Conservation District to create and adopt a formal conservation program that recognizes that water rights restricted by a groundwater conservation easement are in use for the purposes of aquifer sustainability and may not be tolled for abandonment.

Valuation

Contributing author: Kevin McCarty (McCarty Land & Water Valuation, Inc.)

Of the tools mentioned above, most are valued by an administrator or negotiated with the landowner with the exception of the conservation easement. In order to better understand the valuation of conservation easements restricting groundwater pumping in the San Luis Valley, Colorado Certified General Appraiser Kevin McCarty outlined a proposed valuation methodology to address the challenges of valuing this new type of easement.[xxxvi]

The value of a conservation easement which would qualify for federal or state tax credits is determined through appraisal. In a standard appraisal procedure to assess the value of conservation easements, the appraiser would conduct a sales comparison by identifying market transactions of properties similar to the parcel in question with conservation easements that have sold in the past. Comparing the sale price of those properties to the sale price of similar properties without conservation easements helps determine the value of the conservation easement.

Since restricting groundwater pumping would be a novel easement requirement in the San Luis Valley, there are no sales available subject to such a conservation easement. There are a few properties that are water short by virtue of decreed pumping limitations. However, this involves a limited number of properties and sales of these properties are rare. There are also a small number of sales which are water short by virtue of geologic conditions that limit water yields. Water short sales can be examined in order to begin to draw conclusions about the market value impact of pumping restrictions. However, there are only a few sales with these conditions available, even when the market is examined over an extended time period. As a result, care must be taken in making conclusions from such a small pool of data. One complicating factor relating to the currently available market data is that many of the water-short properties sold in recent years were purchased by uninformed buyers from outside of the county, specifically during a brief time period when investors were exuberant about the prospect of excessive returns from hemp production. Market value definitionally requires an informed buyer, so those sales do not meet the definition of market value and are particularly suspect now that hemp prices have dropped precipitously and those farmers are struggling with the prices they paid for those farms.

1 CRS 37-92-103(2) and 37-92-402(11)

In conclusion, there is very little existing market data for water short groundwater irrigated properties in the San Luis Valley. It will be important for appraisers to continue to examine any water short sales and in time sales subject to groundwater pumping conservation easements will hopefully begin to supplement that data, providing a more definitive picture of the impact of these restrictions. However, in the meantime, the limited volume of data means that appraisers will need to rely on a methodology that will reasonably predict how the market will respond to groundwater pumping restrictions. The most important measure beyond examining water short comparable sales is to consider the financial impact of pumping restrictions. Because the market for irrigated properties in the San Luis Valley is directly related to agricultural income, determining lost income associated with groundwater pumping easements is a reasonable approach to determining value loss. Even if an adequate number of sales become available at some point in the future, an income approach to value should remain as an important tool in valuing groundwater pumping easements.

Crop water requirements play a pivotal role when considering the financial impact of irrigation water restrictions. The reduction in available water only begins to impact income when crop water requirements are not met. Thus, a percentage reduction in groundwater pumping does not have the same financial implications across properties, even within the same area and growing the same crop. For example, a property with excess water may not see a change in income under a 25% reduction, whereas a property only just meeting crop water requirements previously may see a significant change in income under the same pumping reduction. The impact on potential farm income would be reflected in the market value of the property.

As a result, income analysis based on crop water requirements is proposed as the current methodology to assess the value of a conservation easement restricting groundwater pumping. The appraiser would begin with a normal "before" appraisal to establish current market value of the property. The appraiser would then utilize a composite crop water requirement corresponding to the groundwater subdistrict, crop, and acreage to generate production estimates and calculate the expected change in income under a given reduced pumping scenario.

For example, for hypothetical Property A the "before" value of a pivot irrigated quarter is assigned at $500,000. Property A may have excess water, but adjustments to the market value only begin below 2.0 acre-feet according to a hypothetical composite benchmark crop water requirement of 2.0 acre-feet per irrigated acre. The completely non-irrigated value of the quarter section would be $50,000. So, the percentage value loss equals the percentage pumping reduction (below 2.0 acre-feet) between the $500,000 and the $50,000 value. Thus, a 50% reduction in pumping would create a $225,000 value loss, creating an after value of $275,000 for Property A and a conservation easement value of $225,000.

It would be important to establish a composite benchmark crop water requirement based on scientific data for the San Luis Valley in order to support the appraisal process. Historic crop water requirement data exist for surface and sprinkler irrigation of pasture, potatoes, alfalfa, barley, and several other crops in the San Luis Valley as collected by Agro Engineering and Davis Engineering Service (see appendix for a summary of historic irrigation water requirement data from the San Luis Valley).[xxxvii] These estimates, while not comprehensive over time, demonstrate the differences in irrigation water requirement by crop, site location, and irrigation method. There may be further differences as compared to current irrigation water requirements as a result of updates to irrigation technology, agricultural practices, and crop varieties.

Conclusion

Without expanding voluntary action to restore the aquifers in the San Luis Valley to sustainable levels according to the state's mandate, there is serious risk that regulatory action to shut down thousands of wells is imminent. Previous well shutdowns in the South Platte River basin exemplify the willingness of Colorado's State Engineer to curtail pumping without financial compensation. A similar regulatory action in the San Luis Valley may lead to aquifer recovery but would likely have negative socioeconomic impacts as well as harm wetland ecosystems reliant on irrigation water.

The land and water conservation community in the region can work to continue implementing existing tools- such as CREP and drought contracts – while developing innovative ways to expand the scale of groundwater pumping restrictions. Pilot programs of newer tools – such as conservation easements that restrict pumping, a lease of nonuse, purchase of partial undivided interest in water right/well, or a covenant restricting use/option agreement- will be important to showing potential for success using these newer tools.

Pursuing conservation easements coupled with groundwater irrigation limitations is one way to leverage state and federal tax credits in particular to help fund aquifer recovery while ensuring the viability of the agriculture-based economy. There is a clear opportunity for land trusts, subdistricts, and landowners to collaborate on groundwater pumping conservation easements to avoid dry-up and continue agricultural production in the San Luis Valley.

Appendix

1. PDF memo from Kevin McCarty re: valuation
2. Crop Water Requirements Summary Table
3. Groundwater Conservation Easement Template

Endnotes

i USGS, "Groundwater Decline and Depletion."
ii USGS.
iii Colorado State University, "Groundwater Resources."
iv Rio Grande Basin Roundtable and DiNatale Water Consultants, "Rio Grande Basin Implementation Plan."
v RGWCD and SLV Water Conservancy District, "Factsheet: Economic Contributions of Agriculture to the San Luis Valley."
vi RGWCD and SLV Water Conservancy District.
vii Early Childhood Council of the San Luis Valley, "Community Assessment of the San Luis Valley."
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ix Wetland Dynamics, LLC, "SLV Wetland and Wildlife Conservation Assessment."
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xi Wetland Dynamics, LLC.
xii Wetland Dynamics, LLC.
xiii Smith, "San Luis Valley Water: Below the Surface."
xiv Rio Grande Basin Roundtable and DiNatale Water Consultants, "Rio Grande Basin Implementation Plan."
xv Sangre De Cristo National Heritage Area, "Sangre De Cristo National Heritage Area."
xvi Rio Grande Basin Roundtable and DiNatale Water Consultants, "Rio Grande Basin Implementation Plan."
xvii Rio Grande Basin Roundtable and DiNatale Water Consultants.
xviii RGWCD, "Plan of Water Management Special Improvement District No. 1 of the Rio Grande Water Conservation District."
xix Colorado Judicial Branch, "Background of the Rules Governing New Withdrawals of Groundwater in Water Division 3 Affecting the Rate or Direction of Movement of Water in the Confined Aquifer System."
xx Paddock, "Implementation of Integrated Surface and Groundwater Administration under the 1969 Act in the Rio Grande Basin, Water Division No. 3."
xxi Salazar Rio Grande del Norte Center at Adams State University, Rio Grande State of the Basin Symposium.
xxii Rio Grande Water Conservation District, "Rio Grande Water Conservation District Subdistrict Map."
xxiii Salazar Rio Grande del Norte Center at Adams State University, Rio Grande State of the Basin Symposium.
xxiv RGWCD, "Plan of Water Management Special Improvement District No. 1 of the Rio Grande Water Conservation District."
xxv King et al., "Water Exports and the San Luis Valley in Colorado: Understanding the History and Current Regulatory Framework."
xxvi Carswell, "Farmers Agree to Tax Those Who Deplete Groundwater."
xxvii Salazar Rio Grande del Norte Center at Adams State University, Rio Grande State of the Basin Symposium.
xxviii Walton, "Food vs. Water: High Commodity Prices Complicate Aquifer Protection in Colorado's San Luis Valley."
xxix Rio Grande Water Conservation District, "Subdistrict #1 of the Rio Grande Water Conservation District & CREP."
xxx Rio Grande Water Conservation District, "SD #1 Announcements."
xxxi CA Department of Water Resources, "SGMA Groundwater Management."
xxxii WestWater Research, LLC., California Ag Land and Water Market Outlook: The Decade Ahead.
xxxiii Heard et al., "SGMA's First Groundwater Market: An Early Case Study from Fox Canyon."
xxxiv Heard et al.
xxxv Schumacher.
xxxvi McCarty, "Pumping Reduction and Value Loss."
xxxvii "Water Usage for Crops."

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November 18, 2020

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RE: Impact of Groundwater Pumping Restrictions on Market Value of San Luis Valley Farmland

Dear Clients:

This letter is being provided to summarize initial considerations regarding the impact of groundwater pumping restrictions that could be enforced through conservation easement agreements.

We have identified a number of irrigated cropland sales that rely solely on groundwater which should be considered in our efforts to evaluate the impact of reduced pumping on the market value of irrigated cropland in the San Luis Valley. In a more extensive study of this subject, we will reference details about specific sales. However, for the purposes of this initial consultation report I will only summarize conclusions that we have been able to reach based on that market data.

Crop Water Requirements

Crop water requirements are a fundamental component of what must be considered when studying reduced groundwater pumping and market value. When available water is reduced through either physical or legal limitations, financial implications begin to occur when those crop water requirements cannot be met. This issue will be addressed in more detail later in this consultation report, but it is mentioned here to emphasize its importance.

Sales on the Cusp of Having Adequate Water to Meet Crop Water Requirements

One set of sales that has been examined are transactions that are on the margin of having inadequate water to meet crop water requirements. An examination of these sales suggests that there is very little difference in market values between these types of sales and sales with excess water. This is an important conclusion in terms of how the valuation of pumping reduction conservation easements should be approached.

What this data is telling us is that a certain percentage reduction in available pumping may not necessarily translate into a similar percentage loss in market value, particularly if a specific property has excess water. Conversely, if a property is already at the margin of having adequate water, the same percentage reduction in pumping would have a more significant impact on potential farm income and ultimately on the market value of the property.

Sales with Insufficient Water to Meet Crop Water Requirements

A number of sales in recent years have been discovered which clearly have inadequate water to meet crop water requirements. These sales invariably show significant value losses, although those value losses are not necessarily on par with reduced income levels. When these sales are examined further, they often involve out-of-county buyers and in the past two to three years, many were purchased by hemp growers. Field inspections of some of these properties revealed poorly maintained farmland, often being weed-infested.

The fact that these water short properties appear to be selling to uninformed buyers is problematic for using market data from such sales in a reduced pumping conservation easement appraisal.

Because they are not informed buyers, the definition of market value is not met, and the sales have limited utility at best or should possibly be completely disregarded. Once these types of sales are eliminated, there are few reduced pumping sales that would meet the definition of market value, even if a broad time frame of 10 years or more were to be considered.

Solutions to Methodology

When we reach the point of doing a full conservation easement appraisal for a reduced pumping project, we can certainly try to expand the time horizon to look for additional water short sales. Given access to the Farm Credit Services and the MG Mullins and Company database, we are likely to find at least a few additional sales. However, if the trend towards out of county, uninformed buyers remains present, we are likely to have few reliable transactions. I would anticipate that if we are able to find transactions involving informed buyers, value losses will tend to parallel reduced income levels.

Assuming that we continue to see limited and inconsistent information from water short sales, we will be faced with needing to develop an alternative to estimating the market value of farmland subject to pumping restrictions. At that point examining the reduced income associated with pumping would be a preferred approach. Because, in theory, market value and income should maintain a parallel relationship, this would make sense.

The first step in the valuation of the reduced pumping conservation easement would be a normal before appraisal that establishes the current market value. This value would be no different than if the appraisal were to be conducted for any other reason (such as lending, estate settling, litigation, etc.).

One assumption in the after value is that the after value would only be impacted when the pumping reductions drop below the amount of water necessary to meet the full crop water requirement. Establishing a single crop water requirement volume would seem to be a logical and straightforward way to approach this. However, because crop water requirement vary for major crops produced in the San Luis Valley, this becomes one of the problematic issues relating to this approach. That is further exacerbated by the fact land values associated with land suitable for potato production are typically higher than land without such suitability. This issue will be at the heart of the after valuation of reduced pumping conservation easements and it will be something that appraisers, consultants and clients will all have to carefully consider as we try to predict how pumping reduction easements will impact market value.

Benchmark Crop Water Requirement

The establishment of benchmark minimum pumping levels will likely have some geographic parameters and will certainly need to have scientific based conclusions about specific crops. While a single benchmark could be concluded, it could involve multiple benchmarks. Whatever that determination is, it will need to be consistent and capable of reflecting the reality of how market participants will likely respond to these pumping restrictions once they are placed on properties.

One possibility for establishing a benchmark crop water requirement is to determine the acreage of each crop within each subdistrict. The acreage of each crop could then be weighted based on the crop water requirement that has been established for each crop. This would produce a *composite crop water requirement* for each subdistrict. Because cropping patterns change over time, this could be updated annually. Although, I would suspect that the composite number would remain fairly stable.

Future Market Data

Ultimately, if reduced pumping conservation easements do grow in popularity, we will begin to see transactions and appraisers will have more reliable data to do future appraisals.

But, until that happens, appraisers will still have to make an attempt to predict where the market value is likely to be and the use of benchmark pumping levels combined with income reductions would seem to be a logical approach.

Example

The following example illustrates how an after valuation could unfold:

- Before value of a pivot irrigated quarter assigned at $500,000.
- Composite Benchmark crop water requirement of 2.0 acre feet per irrigated acre.
- Subject has excess water, but adjustments to market value only begin below 2.0 acre feet.
- Non-irrigated value of the quarter section would be $50,000.
- The percentage value loss equals the percentage pumping reduction between the $500,000 and the $50,000 value.
- Thus, a 50% reduction in pumping would create a $225,000 value loss, creating an after value of $275,000.

Comments

One potential problem with this approach is that for grass and alfalfa, a 50% reduction may not necessarily mean and 50% reduction in income. For field crops such as potatoes and barley, it may be more of a common practice to fallow a portion of a pivot and in those cases, there could be more of a direct correlation between available water and income. However, even in those cases, some flexibility with crop rotations, particularly as crops with low water requirements are utilized, income levels might be supported to a degree and the percentage reduction in pumping wouldn't correlate precisely with the percentage reduction in income and ultimately market value. As result, as pumping reduction easements are further contemplated, these nuanced aspects of crop management on water short pivots have to be given consideration. Whether or not these issues can be factored into valuations may be another matter. Although, if irrigators are able to adapt to extending water use on easement restricted properties with pumping restrictions, there could in theory, be market adjustments where market values do not exactly correlate with percentage reductions in pumping. However, for the time being, the approach of a composite benchmark water requirement and percentage value losses matching percentage pumping reductions would seem to be a reasonable representation of market value loss.

Sincerely,

Kevin McCarty
Colorado Certified General Appraiser
CG01319902

Appendix 2

Crop	Location	Irrigation Demand (acre inch per acre)	Irrigation Demand (acre feet per acre)	Irrigation Type	Irrigation Note	Year	Source
Alfalfa	Alamosa	21.30	1.78	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Alamosa	20.22	1.69	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Alamosa	22.50	1.88	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Alfalfa	Center	21.10	1.76	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Center	19.82	1.65	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Center	22.30	1.86	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"

Alfalfa	Del Norte	19.90	1.66	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Del Norte	19.13	1.59	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Del Norte	21.50	1.79	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Alfalfa	Manassa	21.40	1.78	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Manassa	19.03	1.59	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Manassa	22.60	1.88	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Alfalfa	Monte Vista	21.10	1.76	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Monte Vista	19.65	1.64	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"

Alfalfa	Monte Vista	22.30	1.86	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Alfalfa	Saguache	21.00	1.75	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Saguache	19.18	1.60	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Alfalfa	Saguache	22.40	1.87	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Pasture Grass	Alamosa	17.00	1.42	Surface Irrigation	Pasture grass assumed to be flood irrigated with a 7" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Alamosa	16.31	1.36	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Alamosa	NA	NA	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Pasture Grass	Center	16.70	1.39	Surface Irrigation	Pasture grass assumed to be flood irrigated with a 7" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"

Pasture Grass	Center	16.41	1.37	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Center	NA	NA	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Pasture Grass	Del Norte	15.60	1.30	Surface Irrigation	Pasture grass assumed to be flood irrigated with a 7" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Del Norte	15.61	1.30	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Del Norte	NA	NA	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Pasture Grass	Manassa	17.00	1.42	Surface Irrigation	Pasture grass assumed to be flood irrigated with a 7" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Manassa	15.33	1.28	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Manassa	NA	NA	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"

Pasture Grass	Monte Vista	16.70	1.39	Surface Irrigation	Pasture grass assumed to be flood irrigated with a 7" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Monte Vista	16.50	1.38	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Monte Vista	NA	NA	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Pasture Grass	Saguache	16.50	1.38	Surface Irrigation	Pasture grass assumed to be flood irrigated with a 7" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Saguache	15.76	1.31	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Pasture Grass	Saguache	NA	NA	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Spring Grain	Alamosa	12.10	1.01	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Alamosa	11.21	0.93	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"

Spring Grain	Alamosa	12.80	1.07	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Spring Grain	Center	12.00	1.00	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Center	11.04	0.92	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Center	12.70	1.06	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Spring Grain	Del Norte	11.20	0.93	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Del Norte	10.13	0.84	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Del Norte	12.00	1.00	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Spring Grain	Manassa	11.90	0.99	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"

Spring Grain	Manassa	10.45	0.87	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Manassa	12.50	1.04	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Spring Grain	Monte Vista	11.90	0.99	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Monte Vista	10.92	0.91	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Monte Vista	12.60	1.05	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Spring Grain	Saguache	11.60	0.97	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Saguache	10.56	0.88	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Spring Grain	Saguache	12.40	1.03	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"

Potatoes	Alamosa	13.60	1.13	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Alamosa	14.49	1.21	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Alamosa	14.40	1.20	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Potatoes	Center	13.40	1.12	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Center	14.04	1.17	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Center	14.10	1.18	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Potatoes	Del Norte	12.60	1.05	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Del Norte	13.18	1.10	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"

Potatoes	Del Norte	13.50	1.13	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Potatoes	Manassa	13.50	1.13	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Manassa	14.63	1.22	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Manassa	14.20	1.18	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Potatoes	Monte Vista	13.30	1.11	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Monte Vista	14.40	1.20	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Monte Vista	14.00	1.17	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"
Potatoes	Saguache	13.10	1.09	Surface Irrigation	Surface irrigation assumed to use 3" application	1987	From both "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf" and from the "Davis" column of the 1987 table of the "SLV crop CU summary.pdf"

Potatoes	Saguache	NA	NA	Surface Irrigation	NA	1987	From "irrigation guide" column of the 1987 table of the "SLV crop CU summary.pdf"
Potatoes	Saguache	14.00	1.17	Sprinkler Irrigation	Application for sprinkler irrigation assumed to be 0.875 in	1998	From "Table 1: Tabulation of Crop Irrigation Demand of Water in San Luis Valley, Colorado Using Long Term Climatological Data" (year unknown) of the "Agro Eng CU numbers for SLV crops.pdf"

Appendix 3

DEED OF CONSERVATION EASEMENT
RIVER ACQUIFER RECOVERY AND ENHANCEMENT

[EASEMENT/PROPERTY NAME AND YEAR]

Pursuant to the requirements of Section 15 (Transfer of Property) of this Deed, any time the Property or a permitted portion thereof is transferred by Grantor to any third party, Grantor shall pay a fee of ¼ of 1% of the sale price to Grantee and notify Grantee.

THIS DEED OF CONSERVATION EASEMENT ("**Deed**") is granted on this _____day of _____, 20__, by _____("**Grantor**"), whose address is _____ _____, to [**COLORADO OPEN LAND**S, a Colorado non-profit corporation, whose address is 1546 Cole Boulevard, Suite 200, Lakewood, Colorado 80401 [OR] **RIO GRANDE HEADWATERS LAND TRUST**, a Colorado non-profit corporation, whose address is 840 Grande Avenue, Del Norte, Colorado 81132 ("**Grantee**")] (individually a "**Party**" and collectively the "Parties").

The following exhibits are attached hereto and are incorporated by reference:

Exhibit A: Legal Description of the Property
Exhibit B: Map of the Property
Exhibit C: Water Rights
Exhibit D: Sample Notice of Transfer of Property

RECITALS:

A. ***Description of Property***. Grantor is the owner of the fee simple interest in the subject property legally described in **Exhibit A** and depicted in **Exhibit B**, consisting of approximately ___acres of land, together with **[insert as appropriate: existing improvements (as further described in Section 6, Property Improvements, of this Deed), water and mineral rights owned by Grantor associated with or appurtenant to the property]** located in _____ County, State of Colorado (the "**Property**").

B. The Property is located within Special Improvement District Number __ ("**Subdistrict**"), a subdistrict of the Rio Grande Water Conservation District. Members of the Subdistrict, including Grantor, are landowners within the Rio Grande Water Conservation District who, along with many others, rely on groundwater from wells for all or part of their irrigation water supply.

B1. The hydrology of the San Luis Valley consists of an "unconfined" or alluvial aquifer and a deeper "confined" aquifer. The unconfined aquifer extends about 100 feet below the surface and sits on relatively impermeable interbedded layers of clay. The clay layers lie above the "confined" aquifer, although they do not

completely isolate the effects of well pumping from either aquifer on the other, or on surface stream flow. Well pumping thus causes Injurious Stream Depletions that reduce the amount of water available to senior surface water rights. Well pumping also exceeds the total amount of recharge of the Confined Aquifer, preventing attainment of a Sustainable Water Supply in the two aquifers. This overdevelopment has adversely affected lands within the Subdistrict, resulting in declining water tables, loss of well productivity, and other problems for irrigated agriculture. Unless the total consumption of groundwater in the Subdistrict is reduced, these problems will continue and worsen, threatening the use of the Property for agricultural purposes, the agricultural economy in the Valley, including the Property, open and scenic vistas of the Property, and wildlife habitat on the Property.

B2. The State Engineer adopted 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 in order to replace or remedy Injurious Stream Depletions that materially injure vested water rights and can increase the burden of Colorado's scheduled deliveries under the Rio Grande Compact, and to ensure a Sustainable Water Supply in each aquifer ("Groundwater Rules") (Case No. 15CW3024, Water Div. 3, 2019). The goals of the Subdistrict are to meet the obligations of its members under the Groundwater Rules for a Sustainable Water Supply ("**Sustainable Water Supply**").

B3. This Deed of Conservation Easement encumbers certain water rights and allows flexibility for the temporary reduction in use of such water rights on the Property for the purpose of ensuring the long-term viability of agriculture on the Property, which requires the long-term viability of agriculture in the area through achieving and maintaining a Sustainable Water Supply.

B4. The water right(s) that are included in this Easement shall participate in a water conservation program established through formal action of the Rio Grande Water Conservation District pursuant to C.R.S. § 37-92-103(2)(b)(II), under which any period of nonuse shall be tolled, and no intent to discontinue permanent use shall be found for the purposes of determining abandonment of the water right(s).

C. The Subdistrict seeks to prevent through groundwater conservation Injurious Stream Depletions and achieve and maintain a Sustainable Water Supply in both aquifers. Depletion of the aquifers threatens the farming traditions of the area as well as the local ecology. The Rio Grande Water Conservation District has partnered with the San Luis Valley Water Conservancy District, the Conejos Water Conservancy District, the Rio Grande Headwaters Land Trust and Colorado Open Lands to form the River Aquifer Recovery & Enhancement ("**RARE**") Partnership. This Easement, which has a limitation on groundwater use, is part of RARE's project to assist the Subdistrict to achieve and maintain a Sustainable Water Supply.

D. ***Conservation Purposes***. Pursuant to I.R.C. § 170(h)(4)(A) and Treasury Regulation § 1.170A-14(d), the conservation purposes of a qualified conservation contribution must include one or more of the following: (1) to preserve land for outdoor recreation by, or

education of, the general public; (2) to protect relatively natural habitat of fish, wildlife or plants; (3) to preserve open space; and (4) to preserve historically important land or structures.

The conservation purposes of this Easement ("Conservation Purposes") are as follows:

D1. ***Relatively Natural Habitat*** [§ 1.170A-14(d)(3)]. Just as the aquifer is crucial to continued agricultural production on the Property and in the region and the economic security of the community, the success of many species also depends upon the health of the aquifers for wetland and riparian habitat. Wildlife that relies upon wetland and riparian habitat includes birds such as the southwest willow flycatcher and the yellow billed cuckoo. Maintaining a Sustainable Water Supply is critical to maintaining relatively natural habitat.

D2. ***Open Space*** [§ 1.170A-14(d)(4)]. The Property qualifies as Open Space because it is being preserved for agricultural use, including preservation of a Sustainable Water Supply, which preserves agriculture on the Property and the region and the agricultural economic security of the community, and will yield a significant public benefit. Maintaining a Sustainable Water Supply is critical to maintaining open space.

Scenic Enjoyment. The Property adds to the scenic character of the local rural landscape in which it lies, contains a harmonious variety of shapes and textures, and provides a degree of openness, contrast and variety to the overall landscape. A large portion of the Property is visible to the general public from **[list roads, rivers, trails, adjacent public lands, etc.]**, which are open to and actively utilized by residents of _____ County and the State of Colorado. Preservation of the Property will continue to provide an opportunity for the general public to appreciate the unobstructed scenic views it provides of an open and undeveloped landscape. The terms of this Deed do not permit a degree of intrusion or future development that would interfere with the essential scenic quality of the land.

Agriculture. The Property is currently used for agricultural purposes including **[irrigated or dryland crop production, cattle grazing, etc.]**. This use, including maintaining a Sustainable Water Supply, is compatible with other land use in the vicinity, as adjacent properties are also used for agricultural production. The provisions of this Deed ensure that the Property will be available for agricultural production in accordance with I.R.C. §170(b)(E)(iv)(II).

The Property is associated with water rights that are important to its long-term productivity and to sustainable local or regional irrigation and a viable agricultural community, including a Sustainable Water Supply. The Parties acknowledge that maintaining a Sustainable Water Supply and/or the temporary removal of water from the Property will [**choose which apply**]: (1) support the long-term local or regional irrigation by avoidance of forced curtailment or other

regulatory action and by the diversification of income to support the long-term viability of the agricultural operation **AND/OR** (2) increase instream flows and/or water levels in streams, rivers, lakes, and reservoirs to preserve or enhance the natural environment of such water body(s) to a reasonable degree and by the diversification of income to support the long-term viability of the agricultural operation.

Clearly Delineated Government Conservation Policy. Protection of the Property furthers the specific objectives of a clearly delineated government conservation policy.

U.S. Department of Agriculture/State of Colorado - CREP (2012)

The Colorado Rio Grande Conservation Reserve Enhancement Program (CREP) partnership, which was entered into between the state of Colorado and the U.S. Department of Agriculture on December 12, 2012, which provides for irrigation water retirement and establishment of native grass to conserve agricultural irrigation water.

Alamosa County Master Plan (2008) example

It is acknowledged in the Alamosa County Master Plan (2008) (the "Plan") that success of the Alamosa Area depends in part upon the water rights currently used on land in Alamosa County remaining in the County and limiting exportation of water resources.

[**Add more from the County in which the Property is located, or which is affected by a Sustainable Water Supply**]

Significant Public Benefit. There is a risk of continued decline in the artesian pressure of the Confined Aquifer which will harm agriculture on the Property and in the region. As such, there is a strong likelihood that the Property would be developed if left unprotected, which would in turn lead to or contribute to the degradation of the scenic and natural character of the surrounding area. **[Does the Property lie adjacent to any public lands and thereby serve as a critical buffer area to those public lands? Is the protection of the Property consistent with existing private conservation programs in the area? (i.e. are there other easements near the Property?)]**

The Conservation Purposes set forth in this Recital D shall hereafter be referred to as the "Conservation Values." These Conservation Values are of great importance to the Parties, the residents of _____ County, and the State of Colorado.

E. ***State Policy Concerning Conservation Easements***. C.R.S. § 33-1-101, provides in relevant part that "it is the policy of the state of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors." C.R.S. § 35-3.5-101 states in part that "it is the declared policy of the state of Colorado to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products." C.R.S. § 38-30.5-102 provides for the creation of conservation easements to maintain land "in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest or other use or condition consistent with the protection of open land . . .".

F. ***Qualified Organization***. Grantee is a "qualified organization," as defined in §170(h)(3) of the Internal Revenue Code (I.R.C.) and Treasury Regulation § 1.170A-14(c) and is a charitable organization as required under § 38-30.5-104 (2) of the Colorado Revised Statutes (C.R.S.), is certified to hold conservation easements for which a state tax credit is claimed by the State of Colorado's Division of Conservation as outlined in C.R.S. §12-15-104 and in Rule 2.1 of the Code of Colorado Regulations, Qualifications for Certification to Hold Conservation Easements (4 CCR 725-4, Rule 2.1), for the current year. Grantee is also accredited by the Land Trust Accreditation Commission, a national accreditation program sponsored by the Land Trust Alliance, at this time. Further, Grantee's mission is to preserve the significant open lands and natural heritage of Colorado through private and public partnerships, innovative land conservation techniques and strategic leadership, and it possesses the resources and commitment to protect and defend the conservation purposes of this grant.

G. ***Conservation Easement***. This Deed creates a perpetual conservation easement in gross, as defined by C.R.S. §38-30.5-102 and §38-30.5-103 and of the nature and character described in this Deed ("**Easement**").

H. ***Charitable Donation***. **Insert applicable language, either**: "Grantor intends to sell a portion of the property interest conveyed by this Deed to the Grantee, which is defined as a sale to Grantee at a price less than the fair market value of the conservation easement interest. Grantor intends to donate to the Grantee the difference between the fair market value of the conservation easement interest and the consideration paid by Grantee, as a charitable donation of a qualified conservation pursuant to I.R.C. §170(h), Treasury Regulation §1.170A-14, and C.R.S. §38-30.5-101 *et seq*. No goods or services shall be provided by Grantee to Grantor in exchange for this contribution." [OR] : "Grantor intends to make a charitable gift of the Easement created by this Deed to Grantee pursuant to I.R.C. §170(h), Treasury Regulation §1.170A-14, and C.R.S. §38-30.5-101 *et seq*. No goods or services shall be provided by Grantee to Grantor in exchange for this contribution."

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties mutually agree as follows:

1. ***Acknowledgement of Purpose and Intent***. As a guide to the interpretation of this Deed and administration of this Easement, the Parties, for themselves, and for their successors and assigns, expressly declare their agreement and dedication to the following purpose and intent:

    1.1. ***Purpose***. The purpose of this Easement is to preserve and protect the Conservation Values in perpetuity in accordance with I.R.C. §170(h), Treasury Regulation § 1.170A-14, and C.R.S. §38-30.5-101 *et seq.* ("**Purpose**").

    1.2. ***Intent***. The intent of the Parties is to permit acts on and uses of the Property that are consistent with the Purpose and to restrict or prohibit acts on and uses of the Property that are not consistent with the Purpose ("**Intent**"). In this Deed, "consistent with the Purpose" shall mean acts on and uses of the Property that have a positive impact, net neutral impact, or no impact on the Conservation Values as determined by Grantee in its sole discretion. Nothing in this Deed is intended to compel a specific act on or use of the Property other than the preservation and protection of the Conservation Values.

2. ***Conveyance of Easement***. Grantor hereby voluntarily grants and conveys to Grantee, and Grantee hereby voluntarily accepts, this Easement, an immediately vested interest in real property, in perpetuity.

3. ***Rights Conveyed to Grantee***. To accomplish the Purpose, the following rights are hereby conveyed to Grantee, its employees and its representatives:

    3.1. To preserve and protect the Conservation Values;

    3.2. To prevent acts on or uses of the Property that are not consistent with the Purpose and, except as limited by Section 9 (Responsibilities of the Parties Not Affected) of this Deed, Grantee may require the restoration of such areas or features of the Property that are damaged by an inconsistent act or use;

    3.3. To enter upon the Property in order to monitor Grantor's compliance with the terms of this Deed pursuant to Section 10 (Monitoring) of this Deed, and to enforce the terms of this Deed pursuant to Section 11 (Enforcement) of this Deed.

    3.4. To have all Development Rights as defined in Section 16 (Development Rights) of this Deed, except as specifically reserved by Grantor herein.

    3.5. To have all other rights conveyed by this Deed.

4. ***Rights Retained by Grantor***. Grantor retains the right to perform any act on or use of the Property that is not prohibited or restricted by this Deed, provided that such acts or uses are consistent with the Purpose. Specifically, Grantor retains the right to practice agriculture, subject to the terms of this Deed.

5. ***Documentation of Present Conditions***. Pursuant to Treasury Regulation §1.170A-14(g)(5) and in order to document the condition of the Property as of the date of this Deed, a report

has been prepared by _____and dated _____("**Present Conditions Report**"). The Present Conditions Report documents the Conservation Values and the characteristics, current use, and status of improvements on and development of the Property. The Present Conditions Report has been provided to the Parties and is acknowledged by the Parties as an accurate representation of the Property at the time of the conveyance. The Present Conditions Report will be used by Grantee to assure that any future changes in the use of the Property will be consistent with the terms of this Deed. However, the Present Conditions Report is not intended to preclude the use of other evidence to establish the condition of the Property as of the date of this Deed.

6. ***Property Improvements***. Improvements existing as of the date of this Deed are permitted. All other construction or placement of improvements is prohibited except as provided herein.

6.1. ***Residential and Nonresidential Improvements***. The construction, placement, replacement, enlargement, maintenance and repair of residential and nonresidential structures, whether temporary or permanent, is permitted pursuant to the limitations set forth herein. For purposes of this Deed, "**Residential Improvement**s" are defined as covered structures containing habitable space, including homes, cabins, guest houses, mobile homes, tiny homes and any space attached to a home, cabin or guest house such as a garage, and any other structures intended for full or part-time human habitation. For purposes of this Deed, "**Nonresidential Improvements**" are defined as covered structures and not intended for human habitation and include, but are not limited to, barns, pole barns, sheds, arenas, greenhouses, season extenders/hoop houses, and free-standing garages.

6.1.1. ***Building Envelopes***. There shall be _____ (__) building envelopes permitted on the Property (individually referred to herein as "Building Envelope X" and "Building Envelope Y"….and collectively referred to herein as the "**Building Envelopes**"). All Residential Improvements and Nonresidential Improvements (with the exception of Nonresidential Improvements permitted by Section 4.1.2 below) constructed after the date of this Deed shall be located within the Building Envelope(s).

6.1.2. ***Building Envelope X***. Building Envelope X consists of _____ (__) acres. The location of Building Envelope X is legally described on Exhibit __ and generally depicted on Exhibit__. On the date of this Deed, ____ the following improvements are located within Building Envelope X, _____. Grantor may construct, place, replace, or enlarge Residential or Nonresidential Improvements within Building Envelope X.

6.1.3. ***Building Envelope Y***. Grantor may designate a Building Envelope Y which shall consist of not more than _____ (__) acres by providing to Grantee for Grantee's review and approval, a map and description of such Building Envelope Y. Upon approval of the map and description of Building Envelope Y, the parties shall record a notice confirming the location and description of

Building Envelope Y. Grantor may construct, place, replace, or enlarge Residential or Nonresidential Improvements within Building Envelope Y

6.1.4. ***Outside of the Building Envelope(s)***. On the date of this Deed, the following improvements are located outside of Building Envelope X (or the Building Envelopes): Grantor may construct, place, replace or enlarge Nonresidential Improvements outside of Building Envelope X **[or "the Building Envelopes"]** subject to the following: The maximum number of Nonresidential Improvements shall not exceed _____; and the maximum Footprint for each Nonresidential Improvement shall not exceed 300 square feet, and the total cumulative Footprint for all Nonresidential Improvements shall not exceed _____square feet.

6.1.5. ***Repair and Maintenance***. Grantor may repair and maintain permitted improvements without further consent of Grantee.

6.1.6. **Notice**. Prior to the placement, construction, replacement or enlargement of any Residential Improvement or Nonresidential Improvement as permitted by Section 6.1, Grantor shall notify Grantee in writing not less than sixty (60) calendar days prior to the date Grantor intends to undertake the activity in question. The written notice shall describe the location and, if outside the Building Envelope(s) the Footprint of the proposed improvement in sufficient detail to allow Grantee to evaluate the consistency of the proposed improvement with this Section.

6.1.7. ***Definition of Footprint.*** For purposes of this Deed, Footprint is defined as the total ground area occupied by all Residential Improvements or Nonresidential Improvements, calculated on the basis of the exterior dimensions (whether at or above ground level) including carports or breezeways, but does not include eaves, uncovered decks or patios ("**Footprint**").

6.2. ***Other Improvements***.

6.2.1. ***Utility Improvements***. Existing energy generation or transmission infrastructure and other utility improvements, including but not limited to: (i) electric power poles, transformers, and lines; (ii) telephone and communications towers, poles, and lines; (iii) septic systems; (iv) domestic water storage and delivery systems; and (v) renewable energy generation systems including, but not limited to, wind, solar, geothermal, or hydroelectric ("**Utility Improvements**"), may be repaired or replaced with an improvement of similar size and type at their current locations on the Property without further permission from Grantee. Utility Improvements may be enlarged or constructed on the Property, subject to the restrictions below and provided that they are consistent with Purpose.

6.2.1.1. ***Within the Building Envelope(s)***. Grantor may enlarge or construct Utility Improvements within the Building Envelope(s) without further permission of Grantee.

6.2.1.2. ***Outside of the Building Envelope(s)***. Grantor shall not enlarge or construct Utility Improvements outside of the Building Envelope(s) without permission of Grantee. Prior to the enlargement or construction of Utility Improvements, Grantor shall provide notice so that Grantee can evaluate whether the proposal is consistent with Purpose, pursuant to Section 23 (Grantee's Approval) of this Deed.

6.2.1.3. ***Additional Requirements***. Following the repair, replacement, enlargement or construction of any Utility Improvements, Grantor shall promptly restore any disturbed area to a condition consistent with the Purpose. Any easement, right of way or other interest granted to a third party or otherwise reserved, to be used for Utility Improvements is subject to Section 8.9 (Easements, Rights of Way or Other Interests) of this Deed.

6.2.1.4. ***Renewable Energy Generation Systems***. Renewable energy generation systems are permitted for limited use on the Property which shall mean such use is primarily for the purpose of allowing Grantor to offset its energy consumption, subject to the restrictions above. Any such limited renewable energy generated on the Property in accordance with this paragraph that incidentally is in excess of Grantor's consumption may be sold, conveyed, or credited to a provider of retail electric service to the extent permitted by Colorado law.

6.2.2. ***Water Improvements***. The maintenance, replacement, and repair of existing non-domestic water improvements such as ponds, reservoirs, stock tanks, center pivot sprinklers, irrigation ditches, pipes, headgates, flumes, pumps, or wells is permitted. The construction of new water improvements or enlargement of existing water improvements, excluding ponds and reservoirs, is permitted provided that such activity is consistent with the Purpose and applicable water permits and/or decrees of the water court. The enlargement of existing ponds or reservoirs, or the construction of new ponds or reservoirs, is permitted provided that Grantee determines that said activities are consistent with the Purpose, pursuant to Section 23 (Grantee's Approval) of this Deed and authorized by a decree of the water court. Any portion of the Property that is disturbed by the maintenance, replacement, repair, construction or enlargement of water improvements shall be restored to a condition that is consistent with the Purpose promptly after said activity is completed.

6.2.3. ***Miscellaneous Improvements***. Golf courses, sod farms, helicopter pads, and

airstrips are prohibited.

7. ***Resource Management***. Grantor recognizes the importance of good resource management and stewardship to preserve and protect the Conservation Values. To this end, the following uses of the Property shall be conducted in accordance with the provisions below.

   If Grantee believes any resource management practice(s) are not consistent with the Purpose, Grantee, in addition to all of its rights under this Deed, may request that the Parties consult with a mutually acceptable resource management professional. This professional will provide written recommendations for said resource management practice(s). The cost of this consultation shall be borne by Grantor. Grantee shall determine whether said recommendations are consistent with the Purpose.

   7.1. ***Agriculture***. All agricultural uses shall be conducted using stewardship and management methods that preserve the natural resources upon which agriculture is based, including a Sustainable Water Supply. Long term stewardship and management goals include soil health, maintaining natural stream channels, preventing soil erosion, minimizing invasive species, avoiding unsustainable livestock grazing practices, minimizing loss of vegetative cover and maintaining a Sustainable Water Supply. If agricultural acts or uses are no longer practiced on the Property, either Party may request that the Parties develop a mutually acceptable plan to ensure continued long-term stewardship and management goals consistent with the Purpose. The expense of developing and implementing said plan shall be borne by Grantor.

   7.2. ***Timber***. On a limited and localized basis, trees may be cut to control insects and disease, to control invasive non-native species, to prevent personal injury and property damage, and for domestic uses on the Property such as firewood and construction of permitted improvements. Tree thinning activities are permitted to maintain the character and nature of the wildlife habitat. Other timber harvesting activities shall be conducted in accordance with a forest management plan prepared by a professional forester at Grantor's expense, provided that Grantee determines that said activities and management plan are consistent with the Purpose, pursuant to Section 23 (Grantee's Approval) of this Deed.

   7.3. ***Relatively Natural Habitat***. Habitat management activities that have the potential to negatively impact the Conservation Values such as chaining juniper or sagebrush, constructing or altering ponds, wetlands, or stream channels, and conducting controlled burns may be permitted provided that Grantee determines that said management activities are consistent with the Purpose, pursuant to Section 23 (Grantee's Approval) of this Deed.

If Grantor owns all mineral rights (for variations, see Mineral Language document):

   7.4. ***Minerals.*** For the purposes of this Deed, minerals shall be defined as soil, sand, gravel, rock, stone, decorative stone, gold and other rare earth elements, oil, natural

gas, coalbed methane (including any and all substances produced in association therewith from coalbearing formations), hydrocarbon, fossil fuel, or any other mineral substance, of any kind or description, on, in, under or part of the Property (collectively referred to as "**Minerals**").

7.4.1. ***Ownership of Minerals.*** As of the date of this Deed, Grantor owns all rights and interests, or a controlling interest in the Minerals and mineral rights located on, under, or in the Property or otherwise associated with the Property. Grantor shall not transfer or otherwise separate the rights or interests in and to any Minerals from the Property.

7.4.2. ***Mineral Development.*** The exploration, development, mining or other extraction or removal of Minerals, conducted on, under, or in the Property or otherwise associated with the Property by any method is prohibited, except as set forth herein. Notwithstanding the foregoing, subject to Grantee's approval Section 23 (Grantee's Approval), Grantor may permit subsurface access to Minerals from locations off the Property provided that Grantor shall not permit such subsurface access to disturb the subjacent and lateral support of the Property, and further provided that there is no surface occupancy of the Property, including but not limited to, the location of all equipment, pumps, storage facilities, pipelines, roads, and any other infrastructure, or other activities necessary for extraction, storage, or transportation is located off the Property, extraction takes place off the Property, and that the method and means of extraction is consistent with the Purpose.

7.4.3. ***Notice Related to Minerals.*** Grantor agrees that by granting this Easement to Grantee, it has given Grantee a portion of its ownership interest in the Property, and by so doing, given Grantee the same legal rights as Grantor to influence and control impacts to the surface of the Property from exploration or development of Minerals. This ownership interest does not include any right for Grantee to receive any income, royalties or lease payments from exploration or development of Minerals. Grantee's ownership interest requires that if Grantor is contacted verbally or in writing regarding the exploration for, lease or severance of Minerals or creation of a Mineral Document (defined below), Grantor shall provide written notice, copy, or description to Grantee of said contact within ten (10) days.

7.4.3.1. *Definition of Mineral Document.* For purposes of this Deed, the term "**Mineral Document**" shall mean any lease, pooling agreement, unitization agreement, surface use agreement, no-surface occupancy agreement, or any other instrument related to Minerals.

7.4.3.2. *Approval of Mineral Document Required.* Grantor shall not enter into any Mineral Document, or amend or renew any existing Mineral Document, without Grantee approval pursuant to Section 23 (Grantee's Approval) to ensure that said document is consistent with the Purpose and this Section, and Grantee shall have the right but not

the obligation to be a party to any such agreement, if Grantee chooses, in its sole discretion. Grantee shall have the right to charge a fee to Grantor for time and costs associated with review of any Mineral Document.

7.5. ***Geothermal Resources.*** Within the Building Envelope, the development and use of geothermal resources is permitted without Grantee's approval, provided that it is consistent with the Purpose. Outside the Building Envelope, the development and use of geothermal resources is prohibited without Grantee approval pursuant to Section 23 (Grantee's Approval).

7.6. ***Recreation***. Low-impact recreational uses such as wildlife watching, hiking, cross-country skiing, hunting and fishing are permitted, provided they are consistent with the Purpose.

7.7. ***Weeds***. The Parties recognize the potential negative impact of noxious weeds and invasive plant species on the Conservation Values. Grantor shall manage noxious weeds and invasive plant species in a manner consistent with the Purpose. Grantee has no responsibility for the management of noxious weeds and invasive plant species.

7.8. ***Water Rights***. Pursuant to C.R.S. § 38-30.5-102, which authorizes the inclusion of "water rights beneficially used upon the land…owned by Grantor" in a conservation easement, the Property subject to this Easement includes any and all right, title and interest in and to the water rights described in Exhibit C ("**Water Rights**").

7.8.1. ***Permitted Uses of Water Rights***. The Parties agree that the Water Rights are hereby dedicated and restricted exclusively to be used for the preservation and protection of the Conservation Values ("Permitted Water Uses"), and that Grantor shall continue to maintain their historic beneficial use, subject to the reserved rights and restrictions herein. The groundwater right(s) that are included in this Easement shall participate in a water conservation program established through formal action of the Rio Grande Water Conservation District pursuant to CRS 37-92-103(2)(b)(II), under which any period of nonuse shall be tolled, and no intent to discontinue permanent use shall be found for the purposes of determining abandonment of the water right(s).

7.8.2. ***Water Conservation Program Restrictions.*** Grantor has certain groundwater rights that have been historically used on the Property. As of the date of this Deed, Grantor's average consumptive use of the encumbered well(s) has been Y acre-ft per year. The Parties agree that this Deed restricts pumping from the wells by X% to a volumetric limitation of Z gallons per minute or an equivalent of Q acre-ft per year.

7.8.3. ***Restrictions on Water Rights***. Grantor shall not transfer, encumber, sell, or otherwise permanently separate the Water Rights from the Property. Grantor shall not abandon or allow abandonment of the Water Rights by action or inaction. Grantor shall not change the historic beneficial use of the Water Rights unless Grantee determines that said change is consistent with the Purpose, pursuant to Section 23 (Grantee's Approval) of this Deed. No change of the point of diversion of the Water Rights shall be submitted for judicial approval unless Grantee determines

that the proposed change of point of diversion is consistent with the Purpose, pursuant to Section 23 (Grantee's Approval) of this Deed.

[**Include if necessary**]

7.8.4. *Ditch or Reservoir Company*. C.R.S. §38-30.5-104(5) requires that, when a conservation easement encumbers a water right represented by shares in a mutual ditch or reservoir company, sixty (60) days notice must be given to said company before the conservation easement may be conveyed. This requirement has been fulfilled.

8. ***Restricted Acts and Uses***.

8.1. ***Division of the Property***. At the time of conveyance, the Property may consist of more than one (1) parcel for purposes of county tax assessment or may have been conveyed to Grantor by one (1) or more separate deeds. Notwithstanding the number of separate parcels conveying the Property, the Property may be granted, sold, exchanged, devised, gifted, transferred, encumbered or otherwise conveyed in unified title as one (1) parcel only, subject to the provisions of this Deed. The division, subdivision, or de facto subdivision of the Property by legal or physical process (including, but not limited to, platting, testamentary division, or other process by which the Property is divided in ownership or in which legal or equitable title to different portions of the Property are held by different owners), into two or more parcels of land, or partial or separate interests (including, but not limited to, condominium interests, interval or time-share interests or the partition in kind of undivided interests) is prohibited. Ownership of the single unit by joint tenancy or tenancy in common is permitted, consistent with Sections 31 (Joint and Several Liability) and 32 (Ownership by Single Entity Consisting of Multiple Parties); provided, however, that Grantor shall not undertake any legal proceeding to partition in kind, subdivide or divide in any manner such undivided interests in the single unit.

If division of the Property will be permitted, use additional language in Division of Property document.

8.2. ***Surface Disturbance*.** Any alteration of the surface of the land, including without limitation, the movement, excavation, extraction or removal of soil, sand, gravel, rock, peat or sod, is prohibited, unless such alteration is associated with permitted acts on and uses of the Property and is consistent with the Purpose.

[Insert as appropriate: Notwithstanding the foregoing, soil, sand, gravel or rock may be extracted from the Property provided that: (i) no more than one-half acre of the Property is disturbed at any one time; (ii) such extraction shall have no more than limited, localized impact on the Property; (iii) such extraction shall be associated with permitted acts on and uses of the Property; and (iv) Grantee determines that such extraction is consistent with the Purpose pursuant to Section 23 (Grantee's Approval) of this Deed. Once extraction is complete, Grantor shall promptly restore any disturbed area to a condition consistent with

the Purpose. This Section shall be interpreted in a manner that is consistent with I.R.C. § 170(h) and the Treasury Regulations adopted pursuant thereto.]

8.3. ***Industrial or Commercial Activity***. Industrial uses of the Property are prohibited. Commercial uses of the Property that are not consistent with the Purpose are prohibited.

8.4. ***Feedlot***. The establishment or maintenance of a feedlot is prohibited. For purposes of this Deed, "feedlot" is defined as a permanently constructed confined area or facility which is used and maintained continuously and exclusively for purposes of finishing or fattening large numbers of livestock for market. Nothing in this Section shall prevent Grantor from seasonally confining livestock into an area, corral or other facility for feeding or calving, or from leasing pasture for the grazing of livestock owned by others.

8.5. ***Public Access***. Nothing contained in this Deed shall be construed as affording the public access to any portion of the Property, although Grantor may permit public access to the Property on such terms and conditions as Grantor deems appropriate, provided that such access is consistent with the Purpose.

8.6. ***Trash***. The dumping or accumulation of any kind of trash, sludge, or refuse on the Property is prohibited, except for farm-related trash and refuse produced on the Property, provided that such dumping or accumulation is consistent with the Purpose. The storage or accumulation of agricultural products and by-products on the Property is permitted provided that such activity is conducted in accordance with all applicable government laws and regulations and is consistent with the Purpose.

8.7. ***Hazardous Materials***. For purposes of this Deed, "Hazardous Materials" shall mean any "hazardous substance" as defined in §9601(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), "pollutant or contaminant" as defined in § 9601(33) of CERCLA, or any hazardous waste as defined in C.R.S. §25-15-101(6). 40 C.F.R. § 302.4 provides a non-exhaustive list of over 600 substances that qualify as hazardous substances under CERCLA. The use, treatment, storage, disposal, or release of Hazardous Materials shall only be permitted in accordance with applicable, federal, state and local law and regulations.

8.8. ***Motorized Vehicle Operation***. The operation of motorized vehicles for purposes associated with permitted acts on and uses of the Property is permitted provided that such operation is consistent with the Purpose.

8.9. ***Easements, Rights of Way or Other Interests***. The conveyance or modification of an easement, right of way, Mineral Document or other similar interest is prohibited unless Grantee determines that the proposed conveyance or modification is consistent with the Purpose pursuant to Section 23 (Grantee's Approval) of this Deed.

9. ***Responsibilities of the Parties Not Affected***. Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligations of Grantor as owner of the Property. Additionally, unless otherwise specified below, nothing in this Deed shall require Grantor to take any action to restore the condition of the Property after any Act of God or other event over which Grantor had no control. Grantor shall continue to be solely responsible for and Grantee shall have no obligation for the upkeep and maintenance of the Property, and Grantor understands that nothing in this Deed relieves Grantor of any obligation or restriction on the use of the Property imposed by law. Among other things, this shall apply to:

9.1. ***Taxes***. Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor will reimburse Grantee for the same. If for any reason Grantor fails to pay any taxes, assessments or similar requisite charges, Grantee may pay such taxes, assessments or similar requisite charges, and may bring an action against Grantor to recover all such taxes, assessments and similar charges plus interest thereon at the rate charged delinquent property taxes by the county assessor's office in which the Property is located.

9.2. ***Liability***.

9.2.1. ***Environmental Liability***.

9.2.1.1. Grantor shall indemnify, defend, and hold Grantee and its members, officers, directors, employees, agents, and contractors (collectively, the "**Indemnified Parties**") harmless from and against any and all loss, damage, cost, or expense, including reasonable attorneys' fees, arising from or in any way related to: (i) the existence, generation, treatment, storage, use, disposal, deposit or transportation of Hazardous Materials in, on or across the Property; (ii) the release or threatened release of Hazardous Materials on, at, beneath or from the Property; (iii) the existence of any underground storage tanks on the Property; or (iv) a violation or alleged violation of, or other failure to comply with, any federal, state, or local environmental law or regulation by Grantor or any other prior owner of the Property.

9.2.1.1.1. Notwithstanding anything in this Deed to the contrary, this Deed does not impose any liability on Grantee for Hazardous Materials, nor does it make Grantee an owner of the Property, nor does it require Grantee to control any act on or use of the Property that may result in the treatment, storage, disposal or release of Hazardous Materials, all within the meaning of CERCLA or any similar federal, state or local law or regulation.

9.2.1.2. ***Grantor's Liability***. Grantor shall indemnify, defend, and hold the Indemnified Parties harmless from and against any and all loss, damage, cost, or expense, including reasonable attorneys' fees, arising from or in any way related to: (i) injury to or the death of any person, or damage to property, occurring on or about or related to the Property, unless caused solely by the willful and wanton act or omission [as defined by C.R.S. §13-21-102(1)(b)] of the Indemnified Parties; (ii) the obligations under this Section; or (iii) the violation or alleged violation of, or other failure to comply with any state, federal, or local law, regulation, or requirement by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property.

9.2.1.3. ***Grantee's Liability***. Grantee shall indemnify, defend and hold Grantor and its assigns, successors and heirs harmless from and against any and all loss, cost or expense, including reasonable attorney's fees, arising from or in any way related to injury to or death of any person occurring on or about or related to the Property arising out of the Indemnified Parties' actions on the Property.

10. ***Monitoring***. In order to monitor Grantor's compliance with the terms of this Deed, Grantee shall have the right to enter upon the Property upon reasonable prior notice to Grantor. Said notice need not be in writing. Grantee may engage such experts or consultants that Grantee deems necessary to assist in monitoring, including conducting aerial flyovers of the Property. Such entry shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

11. ***Enforcement***.

11.1. ***General Provisions***. Grantee shall have the right to prevent and correct or require correction of violations of the terms of this Deed. If Grantee determines that immediate entry is required to inspect for, prevent, terminate, or mitigate a violation of the terms of this Deed, Grantee may enter the Property without advance notice. If such entry occurs, Grantee shall notify Grantor within a reasonable time thereafter. If Grantee determines that a violation has occurred, Grantee shall notify Grantor of the nature of the alleged violation. Said notice need not be in writing. Upon receipt of said notice, Grantor shall immediately cease the alleged violation and either (i) if necessary, provide a written plan for restoration and remediation of the Property and, once approved, restore or remediate the Property in accordance with the plan; or (ii) provide written documentation demonstrating that the activity is permitted and is not a violation. Grantee's acceptance of Grantor's actions under (i) or (ii) above shall be in Grantee's sole discretion, and shall be confirmed by Grantee in writing. If Grantor is unable or unwilling to immediately cease the alleged violation, and comply with (i) or (ii) above, the Parties agree to resolve the dispute through mediation or judicial process. At any point in time, Grantee may take appropriate legal action, including

seeking an injunction, to stop the alleged violation.

11.2. ***Costs of Enforcement***. Any costs incurred by Grantee in enforcing the terms of this Deed against Grantor, including, without limitation, costs and expenses of suit, attorneys' fees and any costs of restoration necessitated by Grantor's violation of the terms of this Deed, shall be borne by Grantor. If the deciding body determines that Grantee has acted in bad faith in seeking to enforce the terms of this Deed, the Parties shall each be responsible for their own costs. If the Parties agree to mediation, the Parties will equally share the cost of the mediator's fees.

11.3. ***Liquidated Damages.*** The Parties specifically agree that any violation of the terms of this Agreement, including without limitation exceeding the restriction on groundwater withdrawals specified in paragraph 7.8.2, above, will result in substantial damages to Grantor that are not possible to quantify with certainty. Therefore, the Parties agree to that the following is a reasonable quantification of damages and remedy:

11.3.1. Monetary Damages: If Grantor exceeds the groundwater withdrawal limitations in any year, Grantor must pay to Grantee the following amounts, based on the level of excess groundwater withdrawals:
1 acre-foot to 50 acre-feet: $150.00 per acre-foot.
51 acre-feet to 100 acre-feet: $200.00 per acre-foot.
101 acre-feet to 150 acre-feet: $400.00 per acre-foot
151 acre-feet to 200 acre-feet: $800.00 per acre-foot
201 acre-fee or more: $1000.00 per acre-foot.

11.3.2. Additional Damages: If Grantor exceeds the groundwater withdrawal limitations in any year, Grantee, in its sole discretion, may require the Rio Grande Water Conservation District, acting by and through the appropriate Special Improvement District, to exclude Grantor's wells and groundwater rights from any future Annual Replacement Plan submitted to the Colorado Division of Water Resources in conformance with the Groundwater Rules. Such notice must be provided to the Rio Grande Water Conservation District in writing. If Grantee exercises this remedy, the Rio Grande Water Conservation District and the appropriate Special Improvement District, by signing as a Party to this Easement, agree to and shall exclude Grantor's wells and groundwater rights from all future Annual Replacement Plans unless Grantee provides written notice that Grantor's violation has been cured to the satisfaction of Grantee.

11.3.3. Grantor specifically acknowledges the liquidated damages contained herein and agrees the damages listed are both necessary and appropriate.

11.4. ***Grantee's Discretion***. Grantee's remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including the right to recover any damages for loss of Conservation Values as described in C.R.S. §38-30.5-108. Enforcement of the terms of this Deed shall be at the discretion of Grantee, and the failure of Grantee to discover a violation or to

take action shall not waive any of Grantee's rights, claims or interests in pursuing any such action at a later date.

12. ***Deed Correction***. The Parties shall cooperate to correct mutually acknowledged errors in this Deed (and exhibits hereto), including typographical, spelling, or clerical errors. Such correction shall be by recorded written agreement signed by the Parties, with all associated costs being apportioned as the Parties may mutually agree.

13. ***Amendment***. If circumstances arise under which an amendment to or modification of this Deed or any of its exhibits would be appropriate, as determined by Grantee, in its sole discretion, the Parties may jointly amend the terms of the Deed so long as the amendment (a) shall have a positive, or at least a neutral, effect on or impact to the Conservation Values, (b) does not affect the perpetual duration of the restrictions contained in this Easement, (c) complies with all federal, state, and local laws, including C.R.S. § 38-30.5-101, *et seq.*, or any regulations promulgated thereunder, (d) shall be consistent with Grantee's public mission, (e) shall not jeopardize Grantee's tax-exempt status or status as a charitable organization under federal or state law, (f) shall not result in private inurement or confer impermissible private benefit, and (g) complies with Grantee's procedures and standards for amendments (as such procedures and standards may be amended from time to time). Amendment of the Easement shall not affect the Easement's priority against any intervening liens, mortgages, easements, or other encumbrances. In order to preserve the Easement's priority, Grantee may require that any liens, mortgages, easements, or other encumbrances be subordinated to any proposed amendment. Nothing in this Section shall be construed as requiring Grantee to agree to any particular proposed amendment. Grantee shall have the right to charge a fee to Grantor for time and costs associated with any amendment. Any amendment must be in writing, signed by the Parties, and recorded in the official records of _____ County, Colorado.

14. ***Transfer of Easement***. This Easement is transferable by Grantee, provided that (i) the conservation purposes which the contribution was originally intended to advance continue to be carried out; (ii) the transfer is restricted to an organization that, at the time of the transfer, is a qualified organization under I.R.C. § 170(h) and authorized to hold conservation easements under C.R.S. §§38-30.5-101, et seq. and C.R.S. §12-61-724; and (iii) the qualified organization agrees to assume the responsibility imposed on Grantee by this Deed. Grantee shall notify Grantor in advance of any proposed transfers. If Grantee ever ceases to exist, a court with jurisdiction is authorized to transfer this Easement pursuant to (i), (ii), and (iii) above.
15. ***Transfer of Property.*** Any time the Property or a permitted portion thereof is transferred by Grantor to any third party, Grantor shall notify Grantee in writing within five (5) business days after closing using the form in **Exhibit D**, and shall include a copy of the new ownership deed. The document of conveyance shall expressly refer to this Deed. Grantor shall pay a fee of 1/4 of 1% of the purchase price, including the value of non-cash consideration, to Grantee as holder of the real property interest and right of possession represented by this Deed, excluding transfer to Grantor's direct descendants and family members, as defined by the Internal Revenue code, and excluding transfers for the sole purpose of changing the type of legal entity by which title is held. This provision is intended

to run with the land for perpetuity, and to touch and concern the Property burdened by this easement by providing Grantee a contribution toward its stewardship, enforcement and defense of this Easement. If a fee is attributable to a transfer of property classified as "residential real property," as defined in C.R.S. Section 38-35-127(2)(e), then the Grantee covenants and agrees that the fee shall be used for the purposes specified in C.R.S. Section 38-35-127(2)(b)(V) in a manner consistent with the Grantee's mission.

16. ***Development Rights***. For purposes of this Deed, "**Development Rights**" are defined as all present or future rights to (i) construct, place, replace, enlarge, maintain or repair any improvements on the Property; or (ii) receive credit for density for development on or off the Property. By this Deed, Grantor conveys to Grantee all Development Rights associated with the Property except those Development Rights specifically reserved by Grantor, which include the right to make Residential Improvements and Nonresidential Improvements pursuant to Section 6.1 (Residential and Nonresidential Improvements) of this Deed. Therefore, Grantor does not have the right to use or transfer any Development Rights held by Grantee.

17. ***Condemnation***. Grantor shall notify Grantee immediately of any communication or notice received concerning any proposed taking or condemnation affecting the Property, and Grantee shall have the right to participate in any proceedings as a real property interest holder. Grantee may pursue any remedies in law or in equity, including opposition to the condemnation of the Property. If the Property or any part thereof or interest therein is sold or conveyed to a condemning authority under threat of condemnation or taken through condemnation or other involuntary conversion, Grantee shall be entitled to compensation determined as provided in Section 19 (Compensation upon Condemnation, Termination, or Extinguishment) of this Deed.

18. ***Termination or Extinguishment of Easement***. Except as provided in Section 17 (Condemnation) of this Deed, this Easement or any part hereof may only be terminated or extinguished by judicial proceedings in a court of competent jurisdiction. The only ground upon which this Easement can be terminated or extinguished is the total loss of all Conservation Values. If termination or extinguishment occurs, Grantee shall be entitled to compensation determined as provided in Section 19 (Compensation upon Condemnation, Termination, or Extinguishment) of this Deed.

19. ***Compensation upon Condemnation, Termination, or Extinguishment***.

    19.1. The Parties acknowledge that an appraisal of the Property has been completed that indicates that the fair market value of the Easement is _____percent (__%) of the full fair market value of the Property unrestricted by this Easement ("**Proportionate Value Percentage**"), which percentage shall remain constant and shall be applied pursuant to Treasury Regulation §1.170A-14(g)(6)(ii).

    19.2. If the Property is condemned, in whole or in part, pursuant to Section 17 (Condemnation) or if this Easement is terminated or extinguished pursuant to Section 18 (Termination or Extinguishment of Easement), Grantee shall be entitled to a share

of the proceeds of such action at least equal to the Proportionate Value Percentage of the full fair market value of the Property unrestricted by this Easement pursuant to Treasury Regulation § 1.170A-14(g)(6)(ii). Grantor shall not voluntarily accept less than full fair market value of the affected Property unrestricted by this Easement without Grantee's approval.

19.3. Grantee's use of its share of such proceeds shall comply with Treasury Regulation § 1.170A-14(g)(6).

19.4. Grantee's remedies described in this Section shall be cumulative and shall be in addition to any and all remedies now or hereafter existing at law or in equity, including the right to recover any damages for loss of Conservation Values as described in C.R.S. §38-30.5-108.

20. ***No Merger, Abandonment, Release, or Adverse Possession.*** Should Grantee in the future own all or a portion of the fee interest in the Property, Grantee as successor in title to Grantor, shall observe and be bound by the obligations of Grantor and the restrictions imposed on the Property by this Deed. In addition, this Easement shall not merge with the fee title without the prior written approval of Grantor. The Easement shall not be extinguished, in whole or in part, through the legal doctrine of merger in view of the public interest in its enforcement. This Easement cannot be abandoned, released, or affected by adverse possession.

21. ***Perpetual Duration***. This Easement shall be a servitude running with the land in perpetuity. The provisions of this Deed that apply to either Party shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. Notwithstanding the foregoing, each party's rights and obligations under the Easement created by this Deed shall terminate (as to such party, but not as to such party's successor, who shall be bound as provided herein) upon a transfer of the party's entire interest in this Easement or the Property, except that liability of such transferring party for act or omissions occurring prior to such transfer shall survive the transfer.

22. ***Change of Circumstance***. Grantor has considered that restricted acts or uses may become more economically valuable than permitted acts or uses. It is the intent of the Parties that such circumstances shall not justify the termination or extinguishment of this Easement pursuant to Section 18 (Termination or Extinguishment of Easement) of this Deed. In addition, the inability to carry on any or all of the permitted acts and uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment pursuant to Section 18 (Termination or Extinguishment of Easement) of this Deed.

23. ***Grantee's Approval***. Where Grantee's approval is required by this Deed, Grantor shall provide written notice to Grantee not less than sixty (60) calendar days prior to the date Grantor intends to undertake the act or use, with sufficient detail (i.e. location, size, scope, design and nature) to allow Grantee to evaluate the consistency of the proposed act or use with the Purpose. Grantee shall approve or deny Grantor's written request, or notify Grantor

of a delay in Grantee's decision, in writing within forty-five (45) calendar days of receipt of Grantor's written request. Grantee shall only approve acts or uses consistent with the Purpose. Grantor shall not engage in the proposed act or use until Grantor receives Grantee's approval in writing.

24. ***Written Notices***. Any written notice that either Party is required to give to the other shall be delivered: (i) in person; (ii) via certified mail, with return receipt requested; (iii) via a commercial delivery service that provides proof of delivery; or (iv) via any delivery method mutually agreed to by the Parties, to the following addresses, unless one Party has been notified by the other Party of a change of address or ownership.

Grantor: _____
_____
_____
Phone: _____

Grantee: Colorado Open Lands
1546 Cole Boulevard, Suite 200
Lakewood, Colorado 80401

[OR]

Rio Grande Headwaters Land Trust
840 Grande Avenue
Del Norte, Colorado 81132

Rio Grande Water Conservation District here?

If above addresses change, the Parties shall provide updated information to one another in a timely manner. If a notice mailed to either Party at the last address on file is returned as undeliverable, the sending Party shall provide notice by regular mail to the other Party's last known address on file with the tax assessor's office of the county in which the Property lies, and the mailing of such notice shall be deemed compliance with this Section. Notice given to the designated representative of a trust or business entity shall be deemed notice to the trust or business entity, and notice given to the designated representative of a common or jointly held ownership shall be deemed notice to all owners.

25. ***Liens on the Property.***

25.1. ***Current Liens***. **[Insert if applicable:** Grantor represents and warrants that the Deed of Trust dated _____ and recorded on _____ at _____**[recording # or book/page]** in the records of the Clerk and Recorder of _____ County is subordinate to the rights of Grantee under this Deed as evidenced by that certain Subordination Agreement dated _____, between Grantor and **[name of bank]** and recorded on _____, at Reception No.

_____ **[or Book ____ Page ___]** in the records of the Clerk and Recorder of _____ County.**]**

25.2. ***Subsequent Liens***. No provisions of this Deed should be construed as impairing the ability of Grantor to use the Property as collateral for subsequent borrowing. Any mortgage or lien arising from such a borrowing is and shall remain subordinate to this Easement or any amendments hereto.

26. ***Grantor's Representations and Warranties***.

26.1. Except as provided in Section 25.1 (Current Liens) of this Deed **[delete if inapplicable (i.e. there are no mortgages on the Property)]**, Grantor represents and warrants that Grantor: i) has good and sufficient title to the Property, free from all liens and encumbrances securing monetary obligations except ad valorem property taxes for the current year; ii) has the right to grant access to the Property to Grantee for the purposes described in this Deed and has in fact granted said access to Grantee; and iii) shall defend title to the Property against all claims that may be made against it by any person claiming by, through, or under Grantor.

26.2. Grantor represents and warrants that, after reasonable investigation and to the best of Grantor's knowledge:

26.2.1. No Hazardous Materials exist or have been generated, treated, stored, used, disposed of, deposited, or transported, in, on, or across the Property; there has been no release or threatened release of any hazardous materials on, at, beneath, or from the Property; and there are no underground storage tanks located on the Property;

26.2.2. Grantor and the Property are in compliance with all federal state, and local laws, regulations, and requirements applicable to the Property and its use;

26.2.3. There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and

26.2.4. No civil or criminal proceedings or investigations have been threatened or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use.

27. ***Acceptance***. Grantee hereby accepts without reservation the rights and obligations created by this Deed for which no goods or services were exchanged or provided.

28. ***General Provisions:***

28.1. ***Severability***. If any provision of this Deed, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Deed, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

28.2. ***Captions***. The captions in this Deed have been inserted solely for convenience of reference and are not a part of this Deed and shall have no effect upon construction or interpretation.

28.3. ***Waiver of Defenses***. Grantor hereby waives any defense of laches, estoppel or prescription and acknowledges and agrees that the one-year statute of limitation provided under C.R.S. § 38-41-119 does not apply to this Easement, and Grantor waives any rights of Grantor pursuant to such statute.

28.4. ***Controlling Law***. The provisions of this Deed are subject to the laws of the United States and the State of Colorado as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder.

28.5. ***Liberal Construction***. The provisions of this Deed are to be liberally construed in favor of the Purpose, and any ambiguities or questions regarding the validity of specific provisions shall be interpreted in favor of maintaining the Purpose. Any decisions resolving such ambiguities or questions shall be documented in writing.

28.6. ***Counterparts***. The Parties may execute this Deed in two or more counterparts which shall, in the aggregate, be signed by all parties. All counterparts, when taken together, shall constitute this Deed, and shall be deemed the original instrument as against any party who has signed it.

28.7. ***Entire Agreement***. This Deed sets forth the entire agreement of the Parties with respect to the terms of this Deed and supersedes all prior discussions, negotiations, understandings, or agreements relating to the terms of this Deed, all of which are merged herein.

29. ***Recording***. Grantor shall record this Deed in a timely fashion in the official records of _____ County, Colorado, and Grantee may re-record it at any time as may be required to preserve its rights in this Easement.

30. ***No Third Party Enforcement***. This Deed is entered into by and between the Parties, and does not create rights or responsibilities for the enforcement of its terms in any third parties.

31. ***Joint and Several Liability.*** If Grantor at any time owns the Property in joint tenancy or tenancy in common, Grantor shall be jointly and severally liable for all obligations set forth in this Deed.

32. ***Ownership by Single Entity Consisting of Multiple Parties***. If Grantor at any time is an entity which consists of shareholders, partners or members, such Grantor entity is required to

include in its operating agreement, bylaws or other documents setting forth the rights and responsibilities of the entity, the right to assess such shareholders, partners or members for any monetary or other obligations set forth in this Deed. Grantor shall provide a copy of such documentation at any time upon Grantee's request.

33. ***Authority to Execute***. Each party represents to the other that such party has full power and authority to execute and deliver this Deed, and perform its obligations under this Easement, that the individual executing this Deed on behalf of said party is fully empowered and authorized to do so, and that this Deed constitutes a valid and legally binding obligation of said party enforceable against said party in accordance with its terms.

TO HAVE AND TO HOLD, this Deed of Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the Parties, intending to legally bind themselves, have set their hands on the date first written above.

GRANTOR:

By: _____
(Type name here)

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____day of _____, 202__, by _____(Grantor name)_____ in his/her individual capacity as a ____ owner of the Property.

Witness my hand and official seal.

My commission expires: _____

_____
Notary Public

GRANTEE:

COLORADO OPEN LANDS,
a Colorado non-profit corporation

By _____
Anthony P. Caligiuri, President

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this _____ day of _____, 202___, by Anthony P. Caligiuri as President of Colorado Open Lands, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires: _____

_____
Notary Public

[OR

OR
RIO GRANDE HEADWATERS LAND TRUST, a Colorado non-profit corporation

By:_____

Title: _____

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 202___, by _____, as _____ of the Board of

Directors of Rio Grande Headwaters Land Trust, a Colorado non-profit corporation.

Witness my hand and official seal.

_____

Notary Public

My Commission Expires:_____

RIO GRANDE WATER CONSERVATION DISTRICT, a Colorado Special Improvement District

By:_____

Title: _____

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 202___, by _____, as _____ of the Board of Directors of Rio Grande Water Conservation District, a Colorado non-profit corporation.

Witness my hand and official seal.

_____
Notary Public

My Commission Expires:_____

EXHIBIT A

Legal Description of the Property

EXHIBIT B

Building Envelopes / Map of the Property

EXHIBIT C
Water Rights or [Dedicated Water Rights]

EXHIBIT D

Sample Notice of Transfer of Property

To: Colorado Open Lands ("Grantee")
From: **[Insert name of fee owner]** ("Grantor")

Pursuant to Section 15 (Transfer of Property) of the Deed of Conservation Easement recorded **[date]** under reception number _____, Grantee is hereby notified by Grantor of the transfer of the fee simple interest in the subject Property legally described in **Exhibit A** attached hereto effective **[insert date of closing]** to **[insert name of new Grantor]**, who can be reached at **[insert name, legal address, phone and fax number]**. Also pursuant to Section 15 (Transfer of Property) of the aforementioned Deed of Conservation Easement, a copy of the new ownership deed is attached.

GRANTOR:

By:_____
Title:_____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 201__, by _____ as _____of _____ _____.

Witness my hand and official seal.
My commission expires:_____

_____
Notary Public

Date: _____