

<p>DISTRICT COURT, RIO GRANDE COUNTY, COLORADO</p> <p>Rio Grande Combined Court 925 6th Street, Room 204 Del Norte, CO 81132</p>	<p style="text-align: center;">▲ Court Use Only ▲</p>
<p>IN THE MATTER OF THE RIO GRANDE WATER CONSERVATION DISTRICT,</p> <p>RIO GRANDE AND ALAMOSA COUNTY,</p> <p>Rio Grande Water Conservation District 10900 Highway 160 East Alamosa, Colorado 81101 Telephone: 719-589-6301</p> <p>PETITIONER.</p>	
<p>David W. Robbins, #6112 Peter J. Ampe, #23452 Hill & Robbins, P.C. 1660 Lincoln Street, Suite 2720 Denver, CO 80264 Phone: 303-296-8100 Fax: 303-296-2388 E-mail: davidrobbins@hillandrobbins.com peterampe@hillandrobbins.com</p>	<p>Case Number: 2015CV</p>
<p style="text-align: center;">PETITION FOR ESTABLISHMENT OF SPECIAL IMPROVEMENT DISTRICT NO. 2 OF THE RIO GRANDE WATER CONSERVATION DISTRICT</p>	

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

1. The statutory authority for this Petition and for the establishment of the proposed subdistrict is Chapter 37, Article 48, C.R.S., and specifically sections 37-48-108 and 37-48-123.
2. The proposed name of said subdistrict is "Special Improvement District No. 2 of the Rio Grande Water Conservation District."

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3. The property within the proposed subdistrict will be benefited by creation and effectuation of the subdistrict's plan of water management to conserve and stabilize the water supply and ground water storage in a portion of the unconfined aquifer known as the Rio Grande alluvium in Alamosa and Rio Grande Counties, for irrigation, commercial, industrial, municipal, and other beneficial uses for the water users within the boundaries of the Subdistrict and by allowing Subdistrict wells to operate without administration by the State Engineer. The estimated cost of the plan will not exceed \$4 million per year in 2014 dollars, including the annual costs of operation and administration, to prevent injury to senior vested water rights, and to prevent unreasonable interference with the state of Colorado's ability to fulfill its obligations under the Rio Grande Compact. The nature of the benefits anticipated from the plan may include a sustainable supply from the unconfined aquifer for groundwater users; higher average ground water levels; reduced costs for pumping ground water; and the avoidance of administration of ground water withdrawals in the proposed subdistrict by the State Engineer.

4. The territory to be included in the proposed subdistrict is territory within the Rio Grande Water Conservation District. Participation in the Subdistrict is limited to wells, and associated land, that withdraw ground water for a beneficial use that is located within Water Division No. 3. Where a well is used as a source of water for augmentation, substitution or exchange for another water right, such other water right must be diverted within Water Division 3 for a beneficial use located within Water Division No. 3. A map of the proposed territory is attached as Exhibit A and is made a part of such Petition by reference. The proposed included territory is described on Exhibit B, which is attached to this Petition and is made a part of such Petition by reference. A list of the current Subdistrict Wells providing ground water to

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Subdistrict lands is included as Exhibit C, which is attached to this Petition and is made a part of such Petition by reference.

5. The methods proposed to finance the subdistrict plan include: a) reasonable service and user fees to be imposed for the benefits to be conferred by the subdistrict on any person or property; b) Special Improvement Bonds to be paid by special assessments on the property benefited by the plan in an amount on each tract not in excess of the appraised benefits; and, c) the imposition of an ad valorem mill levy on all taxable property in the subdistrict sufficient in amount to raise the funds to pay any amount due on any contract, lease, or general obligation bond installment. The annual revenues from all fees, assessments, or levies on all property within the subdistrict shall not exceed \$4 million per annum, in 2014 dollars. These proposed methods of financing are automatically authorized by the signatures of a majority of the landowners within the proposed subdistrict on petitions to the Board of Directors of the District for formation of the subdistrict, and by those on this Petition, and without further election.

6. Petitioners request that a Board of Managers composed of seven members and one ex officio member, be established to carry out the general supervision and operational management of the Subdistrict plan. For purposes of this paragraph 6, the term "landowner" includes a person or entity that has a valid inclusion contract with the Subdistrict. The Board of Directors of the Rio Grande Water Conservation District will select and appoint the Managers from a pool of persons who will be nominated under the following procedures:

A. Members of the Board of Managers must be landowners, or legal representatives of landowners, in the Subdistrict.

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- B. The ex officio member will be appointed directly by the Rio Grande Water Conservation District Board of Directors, must be a member of the Board of Directors but does not have to be a landowner or legal representative of a landowner in the Subdistrict, and will only vote to break a tie.

- C. The Subdistrict will be divided into three voting districts, as shown on the attached map, Exhibit D.
 - i. Voting district one is comprised of Subdistrict lands west of a north-south line consisting of US Highway 285 and State Highway 15 (also known as the 'Gun Barrel').

 - ii. Voting district two is comprised of Subdistrict lands east of the Gun Barrel and west of a north-south line consisting of County Road 6E which is also the boundary between Rio Grande and Alamosa Counties.

 - iii. Voting district three is comprised of Subdistrict lands east of a north-south line consisting of County Road 6E.

- D. Manager representation will be nominated from each of the voting districts as follows.
 - i. One nominee for Manager shall be elected from District one;

 - ii. Three nominees for Manager shall be elected from District two;

 - iii. One nominee for Manager shall be elected from District three; and,

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- iv. Two nominees for Manager shall be at-large, and elected by all Subdistrict members.
- E. Manager nomination process shall be as follows:
- i. Elections for nominees shall be won by simple majority;
 - ii. Any landowners, or legal representatives of a landowner, of the Subdistrict may run for one nominee position in the voting district in which the landowner's land is located. The nominee for at large member can be from any voting district and must be a landowner, or legal representative of a landowner, within one of the voting districts of the Subdistrict;
 - iii. Any person wishing to run for a position to be nominated to the Board of Managers must submit a written request to the Rio Grande Water Conservation District stating what Manager seat the individual wishes to be considered for and providing evidence of eligibility for that seat at least 30 days prior to the date of the next election;
 - iv. Each landowner, or legal representative of a landowner, of the Subdistrict shall have one vote for each seat in the voting district in which the landowner or legal representation owns lands in the Subdistrict. A landowner, or legal representative of landowner, may vote in more than one voting district if land is owned in more than one voting district; and,

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- v. All landowners, or legal representatives of landowners, in all the voting districts of the Subdistrict may cast one vote for each nominee for the at-large Board Manager seats.

- F. Managers, except for the Ex Officio Manager, shall serve staggered six year terms, with no limit on the number of terms a Manager may serve. The first Board of Managers appointed shall be comprised of two members serving for initial terms of two years, two members serving for initial terms of four years, and three members serving for initial terms of six years. The initial two-year terms will apply to a member from voting district two and one at-large member. The initial four-year terms will apply to a member from voting districts one and two. The initial six-year terms will apply to a member from voting districts two, three and the second at large member. The Ex Officio Manager shall be appointed annually by the Board of Directors of the Rio Grande Water Conservation District.
 - i. The initial election of nominees for Board of Managers shall be within 60 days of final judicial approval of this Petition. The initial election under these provisions will be operated and overseen by the Rio Grande Water Conservation District, consistent with the provisions of this Petition. Once formed, the Board of Managers of the Subdistrict will adopt such rules and regulations as are necessary for the conduct of future elections, in conformity with this Petition;

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- ii. If a voting district fails to nominate a candidate for an expiring seat on the Board of Managers or if a seat on the Board of Managers becomes vacant within the term of such seat, then the Board of Directors shall be free to make an appointment of its choosing, meeting the applicable criteria. An appointment to fill a vacant seat shall be for remainder of term of such seat;
- iii. The Board of Managers will select from among its members one member to serve as president of the Board and may select such other officers as it deems necessary; and,
- iv. Each Manager shall have one vote; the ex officio member will only vote to break a tie.

The Board of Managers will operate both separately and in conjunction with the Board of Directors of the Rio Grande Water Conservation District. The Board of Managers will report to and coordinate with the District Board of Directors. The Ex Officio member will provide regular updates concerning the Board of Managers activities at Rio Grande Water Conservation District Board meetings. The Board of Managers will adopt by-laws governing meeting conduct and procedures and such other matters the Board of Managers deem necessary, in conformance with this Petition.

7. In October of each year, the Board of Managers will provide a written report to the Rio Grande Water Conservation District Board detailing the prior year's operations, achievements, expenditures, and budget, as well as the anticipated operations, expenditures, and budget for the coming year. The annual report will include a certification of the total amount of

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subdistrict assessments to be levied in the coming year, subject to final approval by the Rio Grande Water Conservation District Board of Directors prior to December 1st. In addition, the Board of Managers will consult with the Rio Grande Water Conservation District Board on an as-needed basis to obtain approval for contract bids, acquisition of property, and other matters for which the Rio Grande Water Conservation District Board approval is required.

8. The scope of responsibility of the Board of Managers shall include the authority to:
 - A. prepare and submit an official subdistrict plan of water management for approval by the Rio Grande Water Conservation District and take all future actions necessary to comply with the approved plan;
 - B. determine the amount, if any, of acreage served with ground water that must be withdrawn from irrigation under varying hydrologic conditions and determine the manner in which injurious depletions to senior surface water rights caused by ground water withdrawals by Subdistrict Wells will be replaced to the affected streams or what other means other than providing water may be used in order to remedy injury to senior water rights;
 - C. cooperate with the Rio Grande Water Conservation District Board of Directors to execute and operate all works and improvements in the Subdistrict plan;
 - D. solicit and approve bids, and recommend their acceptance by the Rio Grande Water Conservation District Board of Directors, for contracts to carry out the works and improvements in the Subdistrict plan;
 - E. recommend and request that the Rio Grande Water Conservation District Board of Directors enter into any other contracts reasonably necessary to effectuate the

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- purposes of the plan, including contracts with United States and state governments, corporations, special districts, municipalities and other public and private entities to remedy injurious depletions caused by the withdrawal of ground water within or outside of the Subdistrict and for other purposes;
- F. request that the Rio Grande Water Conservation District retain employees and other personnel to perform functions required by the approved Plan of Management and annual budget of the Subdistrict;
- G. monitor measurement devices and collect scientific data in order to effectuate the purposes of the plan;
- H. after consultation with, and with the approval, of the Board of Directors, enter upon any lands within or without the Subdistrict to make surveys and examinations necessary for the express purpose for the operational activities of the Subdistrict only;
- I. after consultation with, and with the approval, of the Board of Directors, improve any watercourse and alter or remove any structure connected to a watercourse, as reasonably necessary to effectuate the plan, with any costs and notices to be undertaken as provided in section 37-48-132, C.R.S.;
- J. recommend and request that the Board of Directors of the Rio Grande Water Conservation District purchase, lease, or acquire property as reasonably necessary to effectuate the purposes of the plan and recommend and request that the Board of Directors of the Rio Grande Water Conservation District sell or convey such

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property that is no longer reasonably necessary to effectuate the purposes of the plan;

- K. recommend and request that the Board of Directors of the Rio Grande Water Conservation District acquire and use water rights or other property by purchase or long or short-term leases with or without a pledge of general or specific revenues of the Subdistrict;
- L. annually determine and certify to the Rio Grande Water Conservation District Board of Directors the total amount of assessments to be levied, subject to final approval and levy by the Rio Grande Water Conservation District Board of Directors; and,
- M. conduct any other functions and duties as provided for the Board of Managers in sections 37-48-123 C.R.S. *et. seq.*, and in particular, sections 37-48-127 to 37-48-133;

EXCEPT that all contracts are subject to approval by the Rio Grande Water Conservation District Board of Directors and all property acquired, developed, or constructed shall be held in the name of the Rio Grande Water Conservation District exclusively for the purposes and benefit of the Subdistrict.

9. A majority of landowners owning a majority of the land within the Subdistrict has petitioned the Rio Grande Water Conservation District's Board of Directors to organize the Subdistrict, and a copy of the foregoing petitions are attached as Exhibit E.

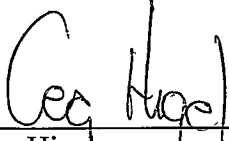
10. A conceptual plan of water management for the Subdistrict has been proposed and is attached hereto as Exhibit F and incorporated herein by this reference. The plan is designed to

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provide a mechanism to prevent injury to senior vested water rights, prevent unreasonable interference with the state of Colorado's ability to fulfill its obligations under the Rio Grande Compact, provide an alternative to state administration of ground water withdrawals in the proposed subdistrict, and, if necessary, reduce the total amount of ground water consumption occurring within the Subdistrict and an equitable means to finance that reduction.

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

WHEREFORE, the undersigned qualified petitioners hereby pray for the organization of said territory as a subdistrict of the Rio Grande Water Conservation District, to be called "Special Improvement District No. 2 of the Rio Grande Water Conservation District" pursuant to the provisions of section 37-48-123, C.R.S. and the unanimous resolution of the Board of Directors of the Rio Grande Water Conservation District.

Signed by: 

Greg Higel
President, Rio Grande Water Conservation District