SPECIAL IMPROVEMENT DISTRICT NO. 1 OF THE RIO GRANDE WATER CONSERVATION DISTRICT

Plan of Water Management

Amended and Restated July 14, 2023

Official Plan, June 15, 2009
Effective December 19, 2011
Amended June 6, 2017
Amended August 16, 2018
Amended and Restated July 14, 2023

TABLE OF CONTENTS

FOURTH AMENDED PLAN OF WATER MANAGEMENT
Special Improvement District No. 1
of the Rio Grande Water Conservation District

The Board of Directors of the Rio Grande Water Conservation District on behalf of the Board of Managers of Special Improvement District No. 1 ("Subdistrict" or "Subdistrict No. 1"), submits the following Amended and Restated Plan of Water Management ("Plan") as the official plan of the Subdistrict, subject to Court approval, pursuant to section 37-48-126, C.R.S. The District Court, Water Division No. 3 approved the first amended Plan of Water Management ("1st Plan") on May 27, 2010. There were subsequent amendments to the 1st Plan on June 6, 2017, and August 16, 2018.

1. DEFINITIONS

1.1. **Annual Replacement Plan or "ARP**" means the compilation of data, calculation of stream depletions and projected operations to replace or remedy injurious stream depletions in accordance with this Amended and Restated Plan of Groundwater Management that must be submitted to the State and Division Engineer by April 15th of each year.

1.2. **"ARP Year" or "Plan Year"** means the time period an ARP is in effect, from May 1st of the then current year through April 30th of the subsequent year.

1.3. **"Annual Service and User Fee"** means total yearly fee assessed consisting of the sum of the Administrative Fee, the CREP Fee, the Subdistrict Fee, and the Depletion Fee.

1.4. **"Closed Basin"** has the same meaning as that term is defined in Art. I (d) of the Rio Grande Compact, C.R.S. § 37-66-101.

1.5. **"Confined Aquifer"** has the same meaning as that term is defined in Rule 4.A.1 of the Rules Governing New Withdrawals of Ground Water in Water Division 3 Affecting the Rate or Direction of Movement of Water in the Confined Aquifer System as such Rules exist now or as they may be amended in the future.

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1.6. **"Contract Well"** means a groundwater well that is included in the Subdistrict's ARP by the process outlined in section 2.3 via a formal agreement between the Subdistrict and the well owner.

1.7. **"CREP"** means the Conservation Reserve Enhancement Program as defined and administered by the United States Department of Agriculture – Farm Service Agency (USDA-FSA) through the authority of the Farm Bill (Conservation Title). In general, CREP allows the USDA, in cooperation with a local sponsoring entity, to offer an annual rental payment for a term of fifteen years to producers willing to fallow a parcel(s) of land and forego the use of the associated water right, including groundwater supplied by a well during that time. CREP aims to foster land and water conservation through this process.

1.8. **"Depletion Fee"** means annual assessment of the Net Groundwater Withdrawals multiplied by the Water Value.

1.9 **"Effective Date"** means May 1 of the year following final, unappealable, approval of this Plan and applies to the first ARP approved under the terms and requirements of this Plan.

1.10. **"Farm Operator"** means an individual(s) or entity(s) actually managing and farming land owned by one or more Farm Owners.

1.11. **"Farm Owner"** means the individual(s) or entity(s) holding title to tract of land as reflected in the records of the County Treasurer.

1.12. **"Farm Unit"** means any lands within Subdistrict No. 1 Response Area under the control and management of a Farm Operator identified to Subdistrict staff through the Farm Unit update process.

1.13. **"Fee Acres"** means land classified as irrigated acres by county Assessors and not Non-Benefitted Subdistrict Land.

1.14. "**Groundwater Management Plan**" means a plan submitted to the state engineer for approval under C.R.S. section 37-92-501(4)(c), and is only that part of a subdistrict's plan of water management that, if the plan is approved, shields it from curtailment by the State Engineer under C.R.S. section 37-92-501(4)(c).

1.15. **"Groundwater Use Rules"** means the 'Rules Governing the Withdrawal of Groundwater in Water Division No. 3 (the Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division No. 3 for All Irrigation Water Rights' promulgated by the State Engineer September 23, 2015, and decreed in Case No. 2015CW3024, District Court in and for Water Division No. 3, as said Rules currently exist or as they may be amended in the future.

1.16. **"Hydraulic Divide"** or "**Emery Hydraulic Divide**" means a hydraulic separation between the Unconfined Aquifer within the Closed Basin and the Unconfined Aquifer tributary to the Rio Grande and defined by the line labeled "Drainage Divide" that appears on Plate 1 of Colorado Water Resources Circular 18, Water in the San Luis Valley, South-Central Colorado (attached as Exhibit 1).

1.17. **"Imported into the Closed Basin"** and **"Imported into the Subdistrict No. 1 Response Area"** mean water diverted from the Rio Grande and delivered into the Subdistrict No. 1 Response Area as defined in the Groundwater Use Rules on the Effective Date.

1.18. **"Measurement Rules"** means the well measurement rules adopted by the State Engineer and approved by the Water Court, Division 3, Case No. 2005CW12 (August 1, 2006).

1.19. **"Net Groundwater Withdrawal"** means Total Groundwater Withdrawn from a Subdistrict Well or Contract Well measured with a water flow meter or such other method approved by the State Engineer pursuant to the State Measurement Rules for Division No. 3 less the applicable Surface Water Credit. This calculation can result in either a positive or negative value.

1.20. **"Non-Benefited Subdistrict Land"** means Subdistrict Land that is irrigated only with surface water without a non-exempt well on the parcel and/or without the physical ability to receive delivery of groundwater withdrawn from a non-exempt well on another parcel. In addition, it includes land irrigated with groundwater pursuant to, and in compliance with, the provisions of a validly decreed plan for augmentation. Some land irrigated with groundwater may be only partially covered by a plan for augmentation in which case that land will be Subdistrict Land and will only be treated as non-benefited to the extent of the groundwater allowed to be withdrawn pursuant to a validly decreed plan for augmentation. Except as provided in section 7, below, Non-Benefited Subdistrict Lands will not be assessed by the Subdistrict or be subject to Annual Service and User Fees unless assessed under contract terms or in circumstances where the owner of such lands sells or otherwise conveys Surface Water Credit to a Subdistrict Member which will result in the Administration fee being charged.

1.21. **"Special Water"** is as described or defined in the decrees for the Rio Grande Canal, which decrees include the decree in Case No. 3638, Rio Grande County District Court, and the contracts giving rise thereto.

1.22. **"Subdistrict Members"** means individuals or entities that own Subdistrict Land.

1.23. **"Subdistrict No. 1 Response Area"** has the same meaning as "Response Area No. 1" as that term is used in the Groundwater Use Rules.

1.24. **"Subdistrict No. 1 Response Functions"** has the same meaning as 'Response Functions for Response Area No. 1' as that term is used in the Groundwater Use Rules.

1.25. **"Subdistrict Rules" or "Subdistrict Rules and Regulations"** mean the rules adopted by the Subdistrict for the implementation of this Plan, as the same are amended from time to time.

1.26. **"Subdistrict Territory"** and "**Subdistrict Land**" both mean, pursuant to section 37-48-123(2)(d), C.R.S., all lands within the exterior boundaries of the Subdistrict that were classified as irrigated by the applicable county Treasurers and/or Assessors as of May 12, 2006. Subdistrict Territory will remain a part of the Subdistrict for as long as the Subdistrict exists.

1.27. **"Subdistrict Wells"** means irrigation wells and irrigation systems used by the owner of Subdistrict Land. A list of Subdistrict Wells is included in the Subdistrict ARP and may be updated and changed from time to time through the Subdistrict's ARP process.

1.28. **"Surface Water Credit"** means the Sustainable Water Supply Surface Water that will be accounted for on a Farm Unit basis as offsetting groundwater withdrawals under the Plan. It includes any surface water for which Surface Water Credit was granted pursuant to an unexpired inclusion contract with the Subdistrict prior to December 21, 2022, in the amount recharged to the Unconfined Aquifer. Surface Water Credit does not include (a) water captured in drains or seepage ditches, or water otherwise recaptured after initial use within the Subdistrict No. 1 Response Area; (b) or reuse of return flow from the use of water from streams flowing into the Closed Basin. All Surface Water Credit must be diverted pursuant to a water right decree that was entered by the court prior to the formation of the Subdistrict

and which, to the extent necessary, was thereafter changed by decree of the Water Court to confirm the right to recharge and subsequently use the water recharged in exercise of the water right. Surface Water Credit is used by the Subdistrict for purposes of computing the Depletion Fee and has no relationship to Recharge Decrees[1] adjudicated by the Division 3 Water Court. The method for calculation of Surface Water Credit is further defined in the Subdistrict Rules.

1.29. **"Sustainable Water Supply"** means a condition where the storage level in the Unconfined Aquifer of the Closed Basin is within 200,000 – 400,000 acre-feet below the storage level that was calculated to exist on January 1, 1976, by Davis Engineering Service, Inc. in the study entitled "Change in Unconfined Aquifer Storage, West Central San Luis Valley.

1.30. **Sustainable Water Supply Groundwater Withdrawals**" means the Total Groundwater Withdrawals from all Subdistrict Wells and Contract Wells that are included in the ARP.

1.31. "**Sustainable Water Supply Surface Water**" means that amount of surface water that enters Subdistrict No. 1 Response Area and is physically and legally available as an offset to well pumping, whether imported or native to the Closed Basin, as further described in section 3.4.1.

1.32. **"Total Groundwater Withdrawals"** means the TOTAL amount of groundwater withdrawn from a Subdistrict Well or a Contract Well that will be accounted for on a Farm Unit basis, measured with a water flow meter or such other method

[1] The Recharge Decrees include, but are not limited to, the decrees enter in Cases No. W-3979, W-3980, 96CW45, 96CW46, and any other decrees entered after the formation of the Subdistrict that contain terms sufficient to allow imported water, or a portion thereof, to act as a direct offset to groundwater withdrawals in determining surface water depletions through the application of the RGDSS Model or Response Functions.

approved by the State Engineer pursuant to the State Measurement Rules for Division No. 3, over one Water Administration Year.

1.33. **"Unconfined Aquifer"** means the aquifer composed of sand, gravel, clay, and other materials, and not under artesian pressure, located within the Subdistrict No. 1 Response Area, not including the Confined Aquifer System as defined in Rule 4.7 of the Groundwater Use Rules.

1.34. **"Unconfined Aquifer Storage"** means the volume of stored water within a portion of the Unconfined Aquifer as calculated for Rio Grande Water Conservation District by Davis Engineering Service, Inc. and titled "Change in Unconfined Aquifer Storage, West Central San Luis Valley."

1.35. **"Unconfined Aquifer Storage Level"** means a five-year running average of the Unconfined Aquifer Storage calculated on a monthly basis.

1.36. **"Water Administration Year"** or "Water Year" means the period from November 1st to October 31st of the subsequent year.

1.37. **"Water Value"** means a charge per acre-foot used to calculate the Depletion Fee. Water Value will be adjusted by the Board of Managers as required by this Plan, section 4.2.5 below.

2. BACKGROUND AND BASIS OF THE PLAN OF WATER MANAGEMENT.

2.10. Current Situation

2.10.1. Subdistrict Members are Subdistrict Land owners who rely on groundwater from wells for all or part of their irrigation water supply for lands north of

the Rio Grande mostly within part of the area known as the Closed Basin.[2] Under the hydrologic conditions of the past 20 years, the consumption of groundwater within the Subdistrict Territory significantly exceeded the total amount of Unconfined Aquifer recharge, from both natural sources and water diverted from the Rio Grande into the Subdistrict No. 1 Response Area in the Closed Basin, that is necessary to maintain a sustainable water supply in the Unconfined Aquifer. This imbalance between inflow to the Unconfined Aquifer and consumption of groundwater by Subdistrict and Contract Wells has adversely affected Subdistrict Lands, resulting in significant declines in groundwater levels, loss of well productivity, and other problems for irrigated agriculture. Unless the total consumption of groundwater by Subdistrict and Contract Wells is reduced, these problems will continue.

2.10.2. The current condition of the Unconfined Aquifer in the Subdistrict No. 1 Response Area is the direct result of both ongoing groundwater consumption by irrigation wells during the last two decades, increased temperatures, and reduced surface water supply caused by the current prolonged drought. This drought in the Rio Grande Basin in Colorado began prior to tformation of the Subdistrict.

2.10.3. The Subdistrict was established in 2006 and began operation of its First Amended Plan of Water Management in 2012. The Subdistrict was not created with the legal authority to require reduction of groundwater use. Accordingly, the First Amended Plan and the subsequent Amended Plans relied on economic incentives to encourage voluntary participation in

[2] The legal description of the Subdistrict Territory is contained in the Court's Order establishing the Subdistrict in Case No. 2006CV64 dated July 19, 2006.

conservation programs to reduce consumption of groundwater, to increase water levels in the Unconfined Aquifer, and to achieve and maintain a sustainable water supply. The use of voluntary conservation programs to reduce water use from the Unconfined Aquifer have not been sufficient to prevent continued long-term decline of the Unconfined Aquifer water level in the Subdistrict No. 1 Response Area.

2.10.4. During the first 10 years of operations under previous amended Plans of Water Management, 2012 to 2021, average net groundwater consumptive use by Subdistrict and Contract Wells declined by 63% compared to the 2011 level. During that time the Water Value rose from $45.00 per acre-foot to $150.00 per acre foot.

2.10.5. Between 2013-2017 the annual calendar year flows of the Rio Grande at Del Norte ranged from a high of 690,310 acre-feet to a low of 459,660 acre-feet and averaged 624,234 acre-feet. Between September 2013 and January 2018, the Unconfined Aquifer Storage increased approximately 380,000 acre-feet. The annual flow of the Rio Grande at Del Norte in 2018 was 280,210 acre-feet, Total Groundwater Withdrawals were 269,913 acre-feet and the Unconfined Aquifer Storage declined approximately 233,000 acre-feet. The annual flow of the Rio Grande at Del Norte in 2019 was 928,850 acre-feet, Total Groundwater Withdrawals were 218,454 acre-feet, and the Unconfined Aquifer Storage increased approximately 158,000 acre-feet. The average annual flow of the Rio Grande at Del Norte for 2020-21 was 412,900 acre-feet, average Total Groundwater Withdrawals were 230,276 acre-feet, and during that two-year period the Unconfined Aquifer Storage declined approximately 220,000 acre-feet. In 2022 the water level in the

Unconfined Aquifer approached the lowest levels recorded by the Rio Grande Water Conservation District.

2.10.6. Since Subdistrict formation and operation, the history of the Unconfined Aquifer Storage demonstrates that in periods of greater water supply, the inflow to the Unconfined Aquifer exceeds groundwater consumption by Subdistrict and Contract Wells, and both groundwater storage and groundwater levels increase. Conversely, in periods of lower water supply the inflow to the Unconfined Aquifer is less than groundwater consumption by Subdistrict and Contract Wells, and both groundwater storage and groundwater levels decrease.

2.10.7. The average annual calendar year flow of the Rio Grande at Del Norte during the period 2011 to 2021 was 551,426 acre-feet. The thirty-year average flow of the Rio Grande at Del Norte for the period ending in 2010 was 635,300 acre-feet. Thus, during the period of operation of the Amended Plan, there has been less surface water available to ditches that divert water from the Rio Grande into the Subdistrict No. 1 Response Area. This dry period is also reflected in the reduced flows of Closed Basin streams that also provide water to the Unconfined Aquifer.

2.10.8. Although the Subdistrict has successfully remedied injurious depletions to senior surface water rights caused by groundwater withdrawals from Subdistrict and Contract Wells, it has not been successful in achieving and maintaining a Sustainable Water Supply as defined in this Plan. This Plan is intended to address the now-apparent deficiencies of the previous Amended Plans of Water Management and to adopt alternative economic measures to achieve a Sustainable Water Supply.

2.10.9. The Subdistrict realizes that if more restrictive steps are not taken to achieve a Sustainable Water Supply, the State Engineer will, at some point, be unable to approve a future ARP, resulting in the curtailment of Subdistrict and Contract Wells. State Engineer denial of an ARP could result in the curtailment of all Subdistrict and Contract Wells, causing severe negative impacts on the agricultural economy of the Subdistrict and the San Luis Valley as a whole.

2.11. **Subdistrict Territory**.

2.11.1. Initial inclusion of lands within the Subdistrict's boundary was determined by providing a description of the proposed Subdistrict Territory in the petition to establish the Subdistrict, as required by section 37-48-123(2)(d), C.R.S., and requesting that the County Treasurer and/or Assessor of each county in which territory was proposed to be included provide a list of the names of all landowners of property within the territory that was classified as irrigated. To the extent that land classifications change within the Subdistrict's boundary, Subdistrict Lands may become Non-Benefited Subdistrict Lands.

2.11.2. Subdistrict Territory is the irrigated lands served by Subdistrict Wells that withdraw groundwater for irrigation of Subdistrict Land. If a Subdistrict 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 No. 3 for a beneficial use located within Water Division No. 3. No Subdistrict or Contract Well can be used as a source of water to be exported outside of Water Division No. 3, or to facilitate the export of other sources of water to locations outside of Water Division No. 3.

2.12. **Contract Authority.** To the extent permitted by law, and in accordance with the Subdistrict Rules, the Subdistrict may, at the discretion of the Board of Managers, contract with other well owners, water users, mutual ditch or reservoir companies, subdistricts, water user's associations, governmental entities and other persons or entities within or without the Subdistrict's exterior boundaries to advance the Plan's overall objective. In adopting rules for this purpose, the Subdistrict Board of Managers may contract to include a well in the Subdistrict's ARP if the well's impacts can be determined using the Subdistrict No. 1 Response Function pursuant to the procedures set forth in the Groundwater Use Rules. Additional terms and conditions may be included in contracts if the Board of Managers deems it necessary or desirous to meet the objective of the Subdistrict's Plan.

2.12.1. In accordance with section 2.3, the Subdistrict may recommend and request that the Board of Directors of the Rio Grande Water Conservation District contract on behalf of the Subdistrict to purchase or lease water and temporarily or permanently change the surface water rights so as to be legally able to be used for recharge, storage, or other means of augmentation or replacement to replace injurious stream depletions from the operation of Subdistrict and Contract Wells, to purchase, lease, or sell lands associated with such water rights, and enter into permanent forbearance agreements. The Subdistrict may also recommend and request that the Board of Directors of the Rio Grande Water Conservation District contract with surface water right holders to purchase or lease any available surplus augmentation credits from qualifying court approved plans for augmentation to advance the Plan's overall objective.

2.13. **Plan Overall Objective**.

2.13.1. The objective of this Plan is to provide a water management alternative to state-imposed regulations, including applicable provision of the Groundwater Use Rules, that would otherwise limit or even prohibit the use of Subdistrict Wells. To accomplish this objective the Plan will prevent injurious depletions to senior surface water rights, avoid interference with Colorado's obligations under the Rio Grande Compact, and achieve a Sustainable Water Supply, as a result of which groundwater levels in the Unconfined Aquifer within the Subdistrict Territory should increase; and then to maintain a Sustainable Water Supply in the Unconfined Aquifer with due regard for the daily, seasonal, and longer term demands on the Unconfined Aquifer.

2.13.2. To achieve the Plan's objective, reducing and managing overall groundwater consumption is essential; that is, a program that focuses on achieving a long-term balance between groundwater consumption and surface water brought into the Subdistrict No. 1 Response Area, in order to achieve and maintain a Sustainable Water Supply.

2.13.3. In order to establish a long-term balance between available water supplies and the amount of groundwater consumption, this Plan intends to balance Total Groundwater Withdrawals with the quantity of Surface Water Credit. When this is achieved, the Subdistrict anticipates that, over time, the natural recharge to the Unconfined Aquifer will result in increases in groundwater storage and groundwater levels. The rate of such increases depends on future hydrologic conditions. In wetter periods groundwater storage will increase more rapidly and in drier periods groundwater storage will increase more slowly.

2.13.4. The intent of this Plan also is to comply with the applicable provisions of section 37-92-501(4), C.R.S.

2.14. **Effect of Subdistrict and Plan**.

2.14.1. Subdistrict Wells divert groundwater for irrigation and Contract wells divert water for irrigation or other purposes pursuant to well permits and/or decrees recognized under Colorado law. Neither the creation of the Subdistrict nor this Plan will alter or amend any vested surface or groundwater rights, including aquifer recharge credits associated with water rights in any Ditch or Reservoir Company or Irrigation District. Neither the creation of the Subdistrict nor this Plan expand any lawful beneficial use of water or allow a water right to be used for a beneficial use not contained in a valid decree or well permit.

2.14.2. The Plan is a water conservation program approved by the Rio Grande Water Conservation District within the meaning of section 37-92-103(2), C.R.S., so that reduced diversion of groundwater by Subdistrict Wells is not evidence of intent to abandon any portion of the water right.

2.14.3. This Plan does not alter or affect the ability of individual water right owners to exchange, trade, lease, or sell water, to the extent permitted by the articles of incorporation and bylaws of the participating ditch companies, reservoir companies, irrigation districts, and Colorado law, provided that the exchange, trade, lease, or sale proposed does not expand the amount of groundwater consumption occurring from Subdistrict Wells and Contract Wells. For purposes of this Plan, all water diverted from the Rio Grande and conveyed into the Subdistrict Territory or used on lands outside the Subdistrict Territory and within the Subdistrict No. 1 Response Area from

wells that are included in the Subdistrict's ARP by the process outlined in section 2.3 via a formal agreement between the Subdistrict and the well owner, will be treated the same for accounting purposes, regardless of whether the water is diverted pursuant to decrees for direct flow or delivered from storage.

2.14.4. Special Water diverted from the Rio Grande, delivered for irrigation use by the Rio Grande Canal, and measured at a farm diversion by the persons using the Special Water for irrigation will be subtracted from diversion into the Subdistrict No. 1 Response Area attributable to the Rio Grande Canal, and will be accounted for separately. Nothing in this Plan alters the rights or obligations of either the persons entitled to use Special Water or the Rio Grande Canal Water Users Association.

2.14.5. All water rights from streams arising in the Closed Basin, with decrees entered prior to the formation of the Subdistrict, that are delivered to Subdistrict Land for initial beneficial use, are entitled to receive Surface Water Credit in the amounts established in this Plan. No Surface Water Credit from such lands may be sold or transferred off the lands that the water rights are lawfully entitled to irrigate. Proper devices must exist to capture and measure the portion of such surface water rights diverted to Unconfined Aquifer recharge to offset groundwater withdrawals by Subdistrict Wells used to irrigate the lands lawfully irrigated by such surface water rights.

2.14.6. Lands outside of the Subdistrict Territory but within the Subdistrict No. 1 Response Area.

2.14.6.1. All water rights from La Garita, Carnero Creeks, or other Closed Basin streams, with decrees entered prior to the formation of

the Subdistrict, that are delivered to lands that the water rights are lawfully decreed to irrigate, outside of the Subdistrict Territory and within Subdistrict No. 1 Response Area, will be entitled to Surface Water Credit in the amount determined in the inclusion contract with the Subdistrict and the terms of this Plan. No Surface Water Credit from such lands may be sold or transferred off such lands. Proper devices must exist to capture and measure the portion of such surface water rights diverted to Unconfined Aquifer recharge on or adjacent to the lawfully irrigated lands to offset groundwater withdrawals used on the lands irrigated by such surface water rights, which lands are being served by Contract Wells.

2.14.6.2. If, in any year, the operation of a Farm Unit outside the Subdistrict Territory but within the Subdistrict No. 1 Response Area results in Surface Water Credit generated from surface water diverted into the Subdistrict No. 1 Response Area from the Rio Grande, above the amount of the Total Groundwater Withdrawals from that Farm Unit in that year, such excess Surface Water Credit can be leased or otherwise transferred to any other person, entity, or Farm Unit in the Subdistrict No. 1 Response Area.

2.14.7. Water rights purchased or retired by the Subdistrict will only be used to protect and enhance the water supply for Subdistrict and Contract Wells, including the replacement of injurious depletions to surface water rights. Purchased and/or retired surface water rights may be sold in exchange only for permanent Forbearance Agreements but will not be resold or otherwise used for purposes inconsistent with this Plan. No Surface Water Credit from such water rights owned by the Subdistrict will be available for use to offset

Depletion Fees. The Subdistrict may sell or otherwise dispose of such surface water rights that are no longer useful in meeting the Plan's objective as defined in section 2.4.

2.15. **Limitations on Replacement of Injurious Depletions**.

2.6.1 The Subdistrict will replace injurious depletions that result from groundwater withdrawals by Subdistrict and Contract Wells, as well as their delayed depletions impacting a surface stream from groundwater withdrawals occurring before the creation of the Subdistrict and all delayed depletions by Subdistrict and Contract Wells that will occur in subsequent years that are capable of quantification in the manner required in the Groundwater Use Rules. The Subdistrict will not replace any injurious depletions from wells used on Non-Benefitted Subdistrict Lands resulting from diversions occurring after the time the well is no longer covered by the Subdistrict's ARP.

2.7 **Accretions to the Rio Grande.**

2.7.1 The Subdistrict anticipates that operating under a Plan that, among other things, seeks to match Subdistrict and Contract Well's groundwater consumption with waters imported into the Subdistrict No. 1 Response Area will, at some time in the future, result in a net-positive accretion to the Rio Grande. If such net-positive accretion to the Rio Grande occurs, the Subdistrict may, with the appropriate approval, use those accretions by exchange to storage, substitution, delivery to the State line for Compact delivery credit, other beneficial use, or by lease to another subdistrict within Water Division No. 3 for replacement or remedy of that subdistrict's injurious depletions.

3. DESCRIPTION OF PLAN OF WATER MANAGEMENT

3.1. **General Plan Description.**

3.1.1. Upon approval of the Plan, well owners making groundwater withdrawals from Subdistrict and Contract Wells are required to contribute financially to fund ongoing programs and new programs initiated by the Board of Managers to ensure that the Sustainable Water Supply Groundwater Withdrawals do not exceed the amount of Sustainable Water Supply Surface Water on a 5-year running average.

3.1.2. Until the Sustainable Water Supply described in section 3.4.2 is achieved, the Board of Managers will take steps to ensure that the Sustainable Water Supply Groundwater Withdrawals do not exceed the Sustainable Water Supply Surface Water on a 5-year running average. In continuous support of the Plan the Board of Managers will continue to raise funds to assure the remedy of injurious depletions to senior surface water rights, continue funding conservation programs, and to avoid interference with Colorado's obligations under the Rio Grande Compact.

3.2. **Acts and Improvements**.

3.2.1. The Subdistrict may implement some or all of the following non-exclusive list of acts or improvements:

3.2.1.1. A program of temporary fallowing, which may include cooperation with federal programs, to remove sufficient acreage from production, on an ongoing basis, to achieve reduction in groundwater withdrawals necessary to achieve the objective of the Plan;

3.2.1.2. Economic incentives for the permanent removal of lands from irrigation, which may include cooperation with federal programs;

3.2.1.3. Replacement of stream depletions and/or increases in groundwater recharge;

3.2.1.4. Infrastructure improvements to maximize the diversion and recharge of water available to Colorado under its compact allocation;

3.2.1.5. Purchase and retirement of irrigated lands and/or water rights, either within or without the exterior boundaries of the Subdistrict;

3.2.1.6. Education and research into water conservation, water use efficiency, improved water management, and public education on agricultural water use;

3.2.1.7. Improvement and operation of ditches, headgates, and recharge facilities to make the best use of available water and to improve groundwater recharge; and,

3.2.1.8. Economic incentives to reduce groundwater use by assessing fees on groundwater withdrawals.

3.2.2. The Subdistrict intends to concurrently use a combination of the Depletion Fee and Subdistrict Fee with one or more of the other listed improvements to achieve the objective of the Plan. The Plan will operate for an indefinite period to attempt to reach the Unconfined Aquifer Storage Level described in section 3.4.2, and thereafter to ensure that a sufficient reduction in groundwater consumption continues to occur such that the long-term average consumption of groundwater by Subdistrict and Contract Wells

does not exceed the long-term average inflows to the Subdistrict No. 1 Response Area.

3.3. Protection of Senior Surface Water Rights

3.3.1. In order to ensure the protection of senior surface water rights and to avoid interference with Colorado's obligations under the Rio Grande Compact, the Subdistrict may utilize a portion of its revenues from the Depletion Fee and the Subdistrict Fee to remedy any injurious depletions by Subdistrict and Contract Wells calculated to occur as a result of the operation of Subdistrict and Contract Wells, subject to the limitations in sections 2.6, 7, and 8.

3.3.2. Depletions to surface streams caused by groundwater withdrawals from Subdistrict and Contract Wells will be calculated as required by the Groundwater Use Rules. The Subdistrict will remedy all injurious depletions resulting from groundwater withdrawals by Subdistrict and Contract Wells, subject to the limitations in sections 2.6, 7, and 8.

3.3.3. The following activities, among others, may be undertaken as part of the Subdistrict's efforts to prevent injurious depletions to senior surface water rights:

3.3.3.1. Purchase or obtain existing surface water rights and/or storage rights to be used as replacement water for any injurious depletions to surface water rights resulting from groundwater withdrawals from Subdistrict and Contract Wells; and,

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

3.3.3.3. Establish programs to promote the maintenance of the Hydraulic Divide between the Closed Basin and the Rio Grande.

3.4. Restoration of Ground Water Levels and Groundwater Storage

3.4.1. In order to regulate the Unconfined Aquifer to achieve the Sustainable Water Supply described in section 3.4.2 below, the primary objective of this part of the Plan is to ensure that the Sustainable Water Supply Groundwater Withdrawals by Subdistrict and Contract Wells do not exceed the Sustainable Water Supply Surface Water over a period of years. The Subdistrict anticipates that this will result in achieving a Sustainable Water Supply.

Until the Subdistrict achieves a Sustainable Water Supply, regulation of the Unconfined Aquifer to Achieve a Sustainable Water Supply is described using EQ 3.4.1 below where:

Q_{5IR} – The five-year running average of recharge from the Sustainable Water Supply Surface Water sources lawfully imported into the Subdistrict No. 1 Response Area and directly recharged to the Unconfined Aquifer pursuant to a decree.

Q_{5NR} - The five-year running average of recharge from Sustainable Water Supply Surface Water sources that naturally flowed into the Unconfined Aquifer and are directly recharged to the Unconfined Aquifer, only if pursuant to a court-decreed recharge water right.

Q_{5IDP} - The five-year running average of inflows to the Unconfined Aquifer resulting from deep percolation return flows from lawful beneficial uses from Sustainable Water Supply Surface Water sources lawfully imported to the Subdistrict No. 1 Response Area.

Q_{5NDP} - The five-year running average of inflows to the Unconfined Aquifer resulting from deep percolation return flows from lawful beneficial uses from Sustainable Water Supply Surface Water sources that naturally flowed into the Unconfined Aquifer, only if pursuant to a court-decreed recharge water right.

Q_W - The five-year running average of the Sustainable Water Supply Groundwater Withdrawals, as defined in section 1.30.

(Eq 3.4.1) $Q_{5IR} + Q_{5NR} + Q_{5IDP} + Q_{5NDP} - Q_W > 0$

Eq 3.4.1 must be met beginning seven years after the Effective Date of the Plan, consistent with the requirements of section 3.4.4.2. Calculations of return flows in Eq 3.4.1 will be based on the return flow percentage used in the then current RGDSS Groundwater Model for the specific type of beneficial use.

3.4.2. Specifically, this part of the Plan's objective is to achieve a Sustainable Water Supply, by reaching an Unconfined Aquifer Storage Level between 200,000 and 400,000 acre-feet below the storage level that was calculated to exist on January 1, 1976. The Subdistrict's engineers have used data

derived from State Engineer's Rio Grande Decision Support System Groundwater Model to evaluate the time required to reach this desired groundwater level. The engineering analysis indicates that this objective can be reached within 20 years after final acceptance and implementation of this Plan. The estimated 20-year recovery period, however, is based on hydrologic conditions that existed between 2012 and 2020. Given the current drought and the unknown future effects of climate change, natural inflow into the Unconfined Aquifer cannot be reliably predicted and may be more than or less than occurred in the period 2012 to 2020. Thus, in wetter hydrologic conditions the Subdistrict may achieve the Unconfined Aquifer Storage Level objective sooner than 20 years, and in drier hydrologic conditions it may take more than 20 years to achieve this objective.

3.4.3. Because the groundwater system in the San Luis Valley is non-linear, the Subdistrict anticipates that the Unconfined Aquifer storage will increase at a greater rate while groundwater levels are lower and will increase at a slower rate as groundwater levels rise and losses to evapotranspiration are thereby increased. Given the nonlinearity of the groundwater system and the unknown future water supply conditions, it is not possible to establish specific date-based requirements for increases in Unconfined Aquifer Storage levels.

3.4.4. To ensure regulation of the Unconfined Aquifer in order to Achieve a Sustainable Water Supply occurs, as described in section 3.4.1., the Subdistrict must take the following actions:

3.4.4.1. At a minimum, after the first two full ARP Years following the Effective Date of this Plan, the Subdistrict will determine whether the Sustainable Water Supply Groundwater Withdrawals by

Subdistrict Wells and Contract Wells exceed the Sustainable Water Supply Surface Water, then during the third ARP Year of the Plan, and annually thereafter for a period of four additional years if appropriate, the Board of Managers must make additional increases to the Water Value and/or incorporate other methods to ensure that pumping by Subdistrict and Contract Wells is decreased. During this five-year period, the Board of Managers will thereafter annually evaluate progress in reducing Sustainable Water Supply Groundwater Withdrawals and may increase the Water Value or incorporate other methods as they, in their sole discretion, deem necessary to continually ensure that the Sustainable Water Supply Groundwater Withdrawals by Subdistrict and Contract Wells do not exceed the Sustainable Water Supply Surface Water amounts on a five-year running average basis.

3.4.4.2. Beginning seven years after the Effective Date of this Plan, and for each subsequent ARP Year, the Subdistrict must meet the standard of the Sustainable Water Supply Groundwater Withdrawals by Subdistrict and Contract Wells not exceeding the Sustainable Water Supply Surface Water amounts on a five-year running average basis as defined in this Plan in order to comply with this Plan.

3.4.4.3. In order to comply with Rule 9.1.3.1. of the Groundwater Use Rules and this Groundwater Management Plan, ten years after the Effective Date of this Plan, the Unconfined Aquifer must show an increase in the aquifer level as compared to the level on the Effective Date of this Plan.

3.4.4.4. In order to assess whether the Subdistrict is achieving and maintaining a Sustainable Water Supply, the Subdistrict will provide annually with the ARP and Annual Review, a summary of the information used to make the determinations described in section 3.4.1. This will include documentation of actual Sustainable Water Supply Groundwater Withdrawals and Sustainable Water Supply Surface Water and a calculation of the five-year running average.

3.4.5. The Subdistrict will also continue to participate in and fund the local cost-share for the Rio Grande CREP program and will continue to investigate, develop, fund, and participate in such other conservation programs as the Subdistrict deems necessary or helpful in achieving or maintaining a Sustainable Water Supply.

3.4.6. Once the Sustainable Water Supply described in section 3.4.2. is achieved, the Subdistrict must develop a plan, as described in section 5.2.2, to manage the Contract and Subdistrict well withdrawals to (1) ensure continued maintenance of a Sustainable Water Supply consistent with section 3.4.2, above, (2) remedy injurious depletions to senior surface water rights with replacement water supplies and other agreements sufficient to remedy calculated injurious depletions, (3) prevent interference with the Rio Grande Compact, and (4) supply groundwater for the irrigation needs of Subdistrict Land. This plan must be submitted to the State Engineer and receive approval before being implemented.

3.4.7. All measurements used to gauge success in reaching the Sustainable Water Supply described in section 3.4.2 will be calculated using the average of monthly levels, starting from the first day of the first subsequent calendar year after the Effective Date of this Plan.

3.4.8. The Board of Managers of Subdistrict No. 1 will continue to provide an annual accounting and reporting structure that includes data and information relevant to Plan operations in content, format and scheduling deemed acceptable to the Division 3 Engineer.

4. **SUBDISTRICT COSTS, FEES, AND CHARGES** The methodology and procedure for making the annual accounting described above, including the methodology to calculate injurious depletions to surface water rights and their replacement, is fully set forth in the Subdistrict Rules

4.1. The Subdistrict is entitled to raise funds by assessment of reasonable Annual Service and User Fees to carry out the purposes set forth in this Plan. The Subdistrict intends to finance its costs by raising sufficient annual revenue through the imposition of variable Annual Service and User Fees (or assessment) as described below, in as fair and equitable manner as possible that nevertheless recognizes the absolute need to achieve a Sustainable Water Supply. Subdistrict and Contract Well users using lower quantities of groundwater and/or who accrue the most Surface Water Credit will pay a lower Depletion Fee, and Subdistrict and Contract Well users who use larger quantities of groundwater but who have little or no Surface Water Credit, will pay a higher Depletion Fee. Should Subdistrict and Contract Wells not be allowed to continue to withdraw groundwater because the Plan's objective is not being met, the Subdistrict, or Board of Directors of the Rio Grande Water Conservation District, may, if necessary, continue to assess fees until post-plan injurious stream depletions caused by past groundwater withdrawals from Subdistrict Wells and Contract Wells have been remedied, subject to the limitations on wells on Non-benefitted Subdistrict Lands and reclassified Confined Aquifer Wells contained in sections 2.6, 7, and 8 and wells operating under their own decreed plan for augmentation.

4.2. **ANNUAL SERVICE AND USER FEE:**

4.2.1. The **Annual Service and User Fee** will consist of the four components listed below. Each component will be evaluated, and if appropriate, adjusted by the Board of Managers annually as required by this Plan and in response to the demands of the Plan. In addition, any Contract Well will be assessed an Annual Service and User Fee pursuant to their contract. The components are as follows:

4.2.2. An **Administrative Fee** not to exceed five dollars ($5.00) per acre of Subdistrict Land to provide sufficient revenue to fund the operations of the Subdistrict and to repay any sums due to the Rio Grande Water Conservation District. The Administrative Fee will be set based upon the anticipated funding necessary in the next budget year for programs and other costs and expenditures to be funded by the Administrative Fee. The Board of Managers has determined that the cost of Subdistrict operation should be borne equally by all benefitted Subdistrict Land. Contract Wells Administrative Fee will be assessed per their contract.

4.2.3. A **CREP Fee** not to exceed twelve dollars ($12.00) per acre of irrigated land in the Subdistrict Territory to provide sufficient revenue to fund the local cost share components of a CREP Program designed to retire a total of up to 40,000 acres of land from irrigation in the Subdistrict. The CREP Fee will be set based upon the anticipated funding necessary in the next budget year for programs and other costs and expenditures to be funded by the CREP Fee. The Board of Managers has determined that a defined revenue stream is necessary in order to successfully complete and operate the CREP

Program and that the benefits of a CREP program in the Subdistrict apply to irrigated lands in the Subdistrict Territory as determined by the relevant County Assessor. The CREP Fee will be used to fund the local cost-share for the CREP Program, and, in the discretion of the Board of Managers, the CREP Fee may also be used to fund additional incentives other than those specifically required by the CREP contract between the State of Colorado and the United States Department of Agriculture, as such additional incentives are modified by the Board of Managers. The CREP Fee will not be used to fund programs not directly associated with the CREP Program. Contract Wells CREP Fee will be assessed per their contract.

4.2.4. A **Subdistrict Fee** not to exceed Twelve dollars ($12.00) per acre (as adjusted annually in accordance with the consumer price index applicable to the Rio Grande Water Conservation District's annual revenue limit) of Subdistrict Land to provide sufficient revenue for Subdistrict improvements, including, permanent retirement and/or annual fallowing of the required acreage, protection of senior surface water rights, to develop necessary infrastructure improvements, funding of CREP incentives other than those specifically required by the CREP contract between the State of Colorado and the United States Department of Agriculture as such additional incentives are modified by the Board of Managers, to set aside funds for known future financial obligations in an amount of not more than five-hundred thousand dollars ($500,000.00) per annual budget, and to set aside or invest a portion of the overall funds generated under this fee, not to exceed a total fund balance of Four-million, Five Hundred Thousand dollars ($4,500,000.00) for future unknown contingencies or expenditures and such moneys may be invested in accordance with State Law. The Subdistrict Fee will be set based upon the anticipated funding necessary in the next budget

year for programs and other costs and expenditures, as set forth in this section 4.2.4, to be funded by the Subdistrict Fee. This fee is only necessary in the event the Depletion Fee is not adequate to fully fund operations of the Plan. If additional funding for Subdistrict programs and other costs are necessary, they should be borne equally by all Subdistrict Lands. If the Board of Managers determines the Plan is successful, the Subdistrict Fee will need to provide only a very small level of funding. Contract Wells Subdistrict Fee will be assessed per their contract.

4.2.5. A **Depletion Fee** is calculated as the Water Value multiplied by the acre-feet of Net Groundwater Withdrawals from Subdistrict Wells on each farm or Farm Unit as an economic disincentive intended to assure a long-term balance between the Total Groundwater Withdrawals from Subdistrict Wells and Surface Water Credit. Contract Wells Depletion Fee will be assessed per their contract.

4.2.5.1. The Water Value will initially be Five-Hundred dollars ($500.00) per acre-foot. The Board of Managers has determined that this Water Value is the minimum necessary to achieve and maintain a Sustainable Water Supply.

4.2.5.2. The funds generated by the Depletion Fee may be used to: 1) provide revenue for Subdistrict improvements that directly assist the Subdistrict in achieving and maintaining a Sustainable Water Supply and increasing the Unconfined Aquifer Storage Levels under this Plan, including, permanent retirement and/or annual fallowing of the required acreage, funding of CREP incentives other than those specifically required by the CREP contract between the State of Colorado and the United States Department of Agriculture; 2) to

provide replacement water sufficient to remedy injurious depletions to senior surface water rights.

4.2.5.3. After the second ARP Year after Effective Date of this Plan, and every year thereafter, the Board of Managers will review the amount of Net Groundwater Withdrawals. If the Net Groundwater Withdrawals over the previous two (2) years averages more than two thousand (2,000) acre-feet per year, the Board must increase the Water Value by not less than one hundred dollars ($100.00) per acre-foot and not more than five hundred dollars ($500.00) per acre-foot for the next annual budget. The amount of the increase will be that amount the Board of Managers determine is necessary to further reduce Net Groundwater Withdrawals.

4.2.5.4. Not later than the tenth ARP Year of operation under this Plan and bi-annually thereafter, the Subdistrict will review the then current progress towards achieving a Sustainable Water Supply. If the Subdistrict has not achieved and maintained a Sustainable Water Supply, the Board of Managers will set the Water Value at an amount the Board of Managers determines will be sufficient to achieve and maintain a Sustainable Water Supply.

4.2.5.5. The Board of Managers may increase the Water Value as outlined in this Plan; however, they cannot lower the Water Value.

4.2.5.6. The Depletion Fee will be assessed one year in arrears due to the timing of receipt of the official well meter readings and surface water diversions from the Colorado Division of Water Resources necessary for the calculation of the Depletion Fee. The

Administration Fee, CREP Fee, and Subdistrict Fee do not rely upon well meter records or surface water diversion records and will be assessed in the then current year.

4.2.6. Subdistrict Wells that are Confined Aquifer wells will be subject to the same assessments, except as provided in section 8.0 below.

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

4.4. The Fees provided for above and the requirements to measure groundwater diversions will not be applied to lands that are irrigated solely with surface water.

4.5. The Board of Managers will not relieve a landowner of the obligation to pay these fees unless the landowner has a decreed plan for augmentation or has included the well(s) within another subdistrict in order to ensure that injurious depletions, including post-plan depletions, will be replaced and aquifer sustainability achieved. Further, the Board of Managers will continue to assess fees on such wells and irrigated lands in a fair and equitable manner that recognizes the proportional future financial obligations of the Subdistrict that the Subdistrict incurred prior to the decreed plan for augmentation or joining another subdistrict.

4.6. Subdistrict Lands enrolled in programs that will result in their permanent removal from irrigation shall not be subject to further Annual Service and User Fees from

the time that the permanent removal has been legally committed and dry up has occurred.

4.7. Whatever financial circumstances may ensue, unless there is remedy of injurious depletions as determined in compliance with the Groundwater Use Rules, the Subdistrict and Contract Wells will not be entitled to the benefit of exemption from curtailment by the State Engineer pursuant to section 37-92-501(4)(c).

4.8. In order to ensure that all Subdistrict Well and Contract Well owners receive fair and equal treatment, the Board of Managers will consider appeals by such well owners if the Annual Service and User Fee is considered to be inaccurate or in error. However, any request for corrections to or error alleged in the quantity of groundwater withdrawn by any well must be received by the Subdistrict as required by the Subdistrict's Rules. As the quantity of groundwater withdrawn by any well will be based on the official well meter records of the Colorado Division of Water Resources, no appeal claiming an error in such records will be allowed. The Board of Managers will proceed in compliance with the Subdistrict's Rules and Regulations.

4.9. Any funds collected from contracts with non-Subdistrict entities will be applied to advance the Plan's overall objective.

4.10. The Subdistrict will comply with applicable rules and regulations promulgated by the State Engineer in Division 3.

5. ANTICIPATED BENEFITS

5.1. Subdistrict Benefits. Anticipated benefits to Subdistrict Members of implementing the Plan include:

5.1.1. Stabilization of the groundwater supply by reduction of groundwater over-draft;

5.1.2. Higher average groundwater levels resulting in lower withdrawal heads;

5.1.3. Sustainable groundwater supply for Subdistrict Wells;

5.1.4. Economic support for landowners who withdraw land from irrigation;

5.1.5. Avoiding state-imposed groundwater regulation and the attendant need to have costly plans for augmentation approved by the Water Court as a condition for the continued operation of wells;

5.1.6. Preventing injurious depletions to senior surface water rights; and

5.1.7. Preventing interference with Colorado's obligations under the Rio Grande Compact.

5.2. **Allocation of Groundwater after Achieving the Aquifer Storage Level.**

5.2.1. When the Sustainable Water Supply objective of section 3.4.2 is met, and so long as a Sustainable Water Supply is maintained, the Board of Managers will allow the Total Groundwater Withdrawals of Subdistrict Members who are the owners of water diverted into the Subdistrict No. 1 Response Area from the Rio Grande to increase in an amount sufficient to result in the total consumption of the amount of such surface water, after consumptive losses

incurred in the delivery of such water, as described in the Subdistrict's Rules and Regulations.

5.2.2. When the Sustainable Water Supply objective of section 3.4.2. is met, the Board of Managers will establish a committee to work with the Division Engineer to quantify the amount of water available annually that may be withdrawn by wells within the Subdistrict consistent with maintaining a Sustainable Water Supply. The goal of the committee will be to determine the quantity of Net Groundwater Withdrawals that may legally be made by Subdistrict and Contract wells to maintain compliance with the Sustainable Water Supply requirement. The plan that is developed through the committee must be submitted to the State Engineer for his approval pursuant to section 3.4.6. The lawful use should not be reduced on account of any conservation undertaken by the operator of the well during or after 2002, or the lack of physical supply to such well as a result of groundwater level declines in the Subdistrict Territory.

5.3. **Benefits to the San Luis Valley**. The resulting stabilization of water levels and reduction of groundwater overdraft within the Subdistrict Territory will have broad benefits to the economy of the San Luis Valley as a whole.

6. ENFORCEMENT OF PLAN OF WATER MANAGEMENT

6.1. If a Subdistrict Member fails to comply with this Plan, Subdistrict Rules, or Resolutions made by the Subdistrict, the Board of Managers, in its sole discretion, may subject such non-compliant Subdistrict Members to economic or other penalties for such violations up to and including subjecting non-complying Subdistrict Wells to the Groundwater Use Rules by removing the wells from future Subdistrict ARPs.

7. DECREED PLANS FOR AUGMENTATION

7.1. For all plans for augmentation that include Subdistrict Wells decreed after the date of this Plan, the following conditions will apply to the wells on Non-Benefitted Subdistrict Lands included in the Plan for Augmentation:

7.1.1. The Subdistrict will not replace post-plan depletions from such wells from occurring after the well is operating under a decreed plan for augmentation and is no longer included in an ARP. Such depletions will not be included in any Subdistrict ARP after the entry of the plan for augmentation decree.

7.1.2. The Subdistrict will not be responsible for the wells on the Non-Benefitted Subdistrict Lands obligations to achieving and maintaining a sustainable aquifer in the Subdistrict No. 1 Response Area.

7.1.3. The Subdistrict will continue to assess Non-Benefitted Subdistrict Lands a CREP Fee calculated as a pro-rata share of the total amount of payments due on CREP contracts enrolled on the date of entry of the plan for augmentation decree.

7.2. When a plan for augmentation is decreed by the court, all Subdistrict and Contract Wells subject to that Plan for Augmentation will be immediately removed from the Subdistrict's ARP then in effect.

7.3. Subdistrict Members whose wells are included in a plan for augmentation remain responsible for all Annual Service and User Fees that were incurred prior to the date of entry of the plan for augmentation decree.

7.4. Plan for augmentation wells cannot be readmitted for inclusion in a Subdistrict No. 1 ARP without approval by the Board of Managers and subject to such terms and conditions as the Board of Managers deem fair and equitable, including those necessary to compensate the Subdistrict for expenses incurred that benefit the well

or wells seeking readmission to the Plan, and in accordance with the applicable Subdistrict Rules.

8. SUBDISTRICT LAND SUPPLIED FROM THE CONFINED AQUIFER

8.1. Subdistrict Land that receives all or a portion of its water supply from Confined Aquifer wells or wells partially completed in the Confined Aquifer will be considered to be Subdistrict Wells covered by this Plan. At the election of the landowner such land shall be entitled to be reclassified as Non-Benefitted Subdistrict Land if and when the Confined Aquifer wells are either covered by a final decree for a plan of augmentation or are included in the Plan of a separate confined aquifer subdistrict.

8.2. Any Subdistrict Land receiving its irrigation supply exclusively from the Confined Aquifer may be relieved of the obligation to pay the Annual Service and User Fees set forth in section 4 above if the landowner petitions the Board of Managers for such relief and provides proof that the source of groundwater used is exclusively from the Confined Aquifer and the Confined Aquifer well(s) either have been included in a decreed plan for augmentation, or have been included in a confined aquifer subdistrict.

8.2.1. After receiving the request seeking exemption from Annual Service and User Fees for a Confined Aquifer well(s), the Board of Managers will consider any information provided and must conclude that it establishes clearly and convincingly that:

8.2.1.1. the well(s) diverts exclusively from the Confined Aquifer and that the well(s) will remedy all injurious depletions, and;

8.2.1.2.meet any sustainability requirements set forth in law or regulations.

8.2.1.3.if the Board does not so conclude it will refuse to grant relief from the Annual Service and User Fees.

8.3. Wells completed into both the Unconfined and Confined Aquifers do not qualify for relief under this section 8.

8.4. Confined Aquifer wells in Subdistrict No. 1 may elect either to change their participation to a Confined Aquifer subdistrict or to comply with rules and regulations enacted by the State Engineer for such wells. Unless and until such election is made in writing and submitted to the Board of Managers, the well will remain subject to this Plan. A reclassified Confined Aquifer well cannot be readmitted for inclusion in a Subdistrict No. 1 ARP without approval by the Board of Managers and subject to such terms and conditions as the Board of Managers deem fair and equitable, including those necessary to compensate the Subdistrict for expenses incurred that benefit the well or wells seeking readmission to the Plan, and in accordance with the applicable Subdistrict Rules.

8.5. If a well or wells is reclassified pursuant to section 8.1, above, the Subdistrict will continue to assess the reclassified wells a CREP Fee calculated as a pro-rata share of the total amount of payments due on CREP contracts enrolled on the date of reclassification of the well, and Subdistrict Members whose wells are reclassified under this section 8 remain responsible for all Annual Service and User Fee that were incurred prior to the date of reclassification.

9. BUDGET AND ACCOUNTING

9.1. The Board of Managers will prepare and submit a detailed annual budget for the ensuing Calendar Year to the District's Board of Directors for review and approval. The Subdistrict will post notice of the annual budget prior to the Board of Manager's meeting to review and submit the annual budget to the District Board of

Directors to allow for public comment from Subdistrict Members. Once approved by the District Board of Directors, the Subdistrict's annual budget will be included in the District's annual budget which is approved and submitted to the State of Colorado.

9.2. The Subdistrict's annual budgeting process is contained in the Subdistrict Rules. The annual Subdistrict budget will include detailed descriptions of the activities to be undertaken in the Calendar Year for the purpose of operating and administering the ARP and this Plan and the amount and type of revenues that are required to fund the budgeted expenditures.

10. BOARD OF MANAGERS

10.1. The eleven-member Board of Managers will be selected in the manner provided for in the Petition.

10.2. The Plan of Water Management for the Special Improvement District No. 1 of the Rio Grande Water Conservation District was submitted on June 15, 2009 and became effective on December 19, 2011.

10.3. The Plan of Water Management for the Special Improvement District No. 1 of the Rio Grande Water Conservation District was Amended the Second time June 6, 2017.

10.4. The Plan of Water Management for the Special Improvement District No. 1 of the Rio Grande Water Conservation District was Amended the third time August 16, 2018.

10.5. This Amended and Restated Plan of Water Management for the Special Improvement District No. 1 of the Rio Grande Water Conservation District is submitted this 14th day of July 2023.

11. TRANSITION PROVISIONS

11.1. All contracts between the Subdistrict and Contract Well owners will remain in effect until the expiration of the term of the contract in effect at the time of final approval of this Amended Plan. The Subdistrict hereby notifies all such contract holders that it will not automatically renew such contracts at the expiration of their current term. The Subdistrict will, however, renegotiate such contracts on terms consistent with this Plan.

11.2. All unused Surface Water Credits at the end of the ARP Year in effect when this Plan is finally approved, will remain available for use in the first ARP Year under this Plan.

11.3. Upon final approval of this Plan, the ARP that is then in effect will continue until the end of that ARP Year. The terms and requirements of this Plan will be applied to the subsequent ARP and future ARPs under this Plan.