

# EXHIBIT E

PETITION FOR ESTABLISHMENT OF  
SPECIAL IMPROVEMENT DISTRICT NO. 6  
OF THE  
RIO GRANDE WATER CONSERVATION DISTRICT  
(Conceptual Plan of Water Management)

**CONCEPTUAL PLAN OF WATER MANAGEMENT**  
**Special Improvement District No. \_\_ (Alamosa-La Jara Response Area)**  
**of the**  
**Rio Grande Water Conservation District**

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**I. BACKGROUND AND BASIS FOR THE PLAN OF WATER MANAGEMENT**

The Proponents of Special Improvement District No. \_\_ of the Rio Grande Water Conservation District (“Subdistrict”) propose to form a subdistrict of the Rio Grande Water Conservation District (“the District”) to ensure the replacement of injurious depletions to senior water rights and to conserve and stabilize the water supply and groundwater storage for existing irrigation and other beneficial uses within the area generally included within the boundaries of the Alamosa-La Jara Response Area as designated by the Colorado Division of Water Resources. The Proponents anticipate that the Subdistrict will be governed by a Board of Managers that will develop, adopt and administer a Plan of Water Management (“Plan”) for the Subdistrict. This document sets forth the conceptual Plan in general terms pursuant to section 37-48-123(2)(g), C.R.S., and will be circulated with the Petition to form the Subdistrict.

Participation in the Subdistrict is strictly voluntary. The Alamosa-La Jara Subdistrict will include only those members, who after reviewing this conceptual Plan and other information made available to all interested well owners, and otherwise being fully apprised of the ramifications of joining the Subdistrict, sign the petition seeking formation of the Subdistrict. Land petitioned into the Subdistrict will remain a part of the Subdistrict for as long as the Subdistrict is in existence. Information is readily available at public meetings of the Alamosa-La Jara Response Area Subdistrict workgroup, public well owner informational meetings, online at [rgwcd.org](http://rgwcd.org), by contacting Rio Grande Water Conservation District staff, or by contacting any member of the Alamosa-La Jara Response Area Subdistrict workgroup.

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Participation in the Subdistrict is limited to lands served by wells that are located within Water Division No. 3 and can legally withdraw groundwater for a beneficial use. 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.

**II. SUBDISTRICT TERRITORY**

Pursuant to section 37-48-123(2)(d), C.R.S., the Subdistrict territory generally includes lands with wells used in whole or in part for irrigation, commercial, municipal or industrial purposes within the Alamosa-La Jara Response Area of the Rio Grande Decision Support System (“RGDSS”) groundwater model (and excluding alluvial wells in the Rio Grande Alluvium Response Area of the RGDSS groundwater model) where the landowners of such lands, or representatives legally authorized to act on behalf of the landowners, sign the Petition seeking formation of the Subdistrict. “Landowners,” as used throughout this conceptual Plan, refers to the owners of lands and appurtenant wells that are included within the Subdistrict. Subdistrict lands need not be contiguous.

Where a single well serves multiple owners, such well shall be included in the Subdistrict only if such owners signing a petition to join the Subdistrict assume complete responsibility for all the well impacts. Such owners must provide written notification by means of the owners’ Individual petition(s) of one-hundred percent designation of the proportionate well impact responsibilities to the District prior to Subdistrict formation. The Board of Managers will promulgate rules and regulations governing Subdistrict contracts with non-Subdistrict wells for review and approval of the Board of Directors of the District.

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A map of Subdistrict lands is included as Exhibit A. A legal description of the lands included in the Subdistrict is included as Exhibit B. A list of the current Subdistrict Wells, with corresponding Well Identification Numbers (“WDID”), is included as Exhibit C.

**III. OVERALL OBJECTIVE AND PLAN GOALS OF THE SUBDISTRICT**

The overall objective of this Plan is to provide a water management alternative to individual plans for augmentation or state-imposed regulations that would limit the use of wells within the Subdistrict; that is, a system of self-regulation that promotes responsible groundwater use. The operation of this Plan will comply with the requirements of SB 04-222, codified at section 37-92-501(4), C.R.S., and any rules and regulations promulgated by the Colorado Division of Water Resources then in effect.

Two central goals must be achieved in order for the Subdistrict to operate without state-imposed limitations on the use of wells within the Subdistrict. First, the Subdistrict must replace or otherwise remedy injurious depletions to senior surface water rights resulting from groundwater withdrawals from Subdistrict Wells on Subdistrict lands or, by contract, from other groundwater withdrawals. The Subdistrict will calculate and project, on an annual basis, the injurious depletions caused by groundwater withdrawals from Subdistrict Wells. The Subdistrict, through the District, will acquire replacement water supplies in order to offset injurious stream depletions or remedy such depletions by means other than providing water, to the full extent required by law.

Second, the Subdistrict must maintain, or if necessary, recover a sustainable water supply in the confined aquifer system underlying the Alamosa-La Jara Response Area for irrigation and

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other beneficial uses, with due regard for the daily, seasonal, and long term demands on the aquifers, to the full extent required by law.

Subdistrict members that divert groundwater from the underlying aquifer systems for beneficial use presently operate pursuant to well permits and/or decrees recognized under Colorado law. **If the Subdistrict is unable to achieve its goals as described above, then Subdistrict members, including Contract Wells, which divert groundwater will be subject to administrative rules and regulations, which may include complete curtailment of groundwater withdrawals, by the State of Colorado.**

**IV. EFFECT OF SUBDISTRICT AND PLAN OF WATER MANAGEMENT**

Proponents anticipate the Subdistrict can provide a wide range of benefits to Subdistrict members and the San Luis Valley as a whole, including: prevention of material injury to senior surface water rights that may result from groundwater use; stabilization and maintenance of a sustainable groundwater supply; operation of a compliance plan which meets the criteria set under State of Colorado, Division of Water Resources Rules Governing the Withdrawal of Groundwater in Water Division No. 3 or other laws or rules requiring well administration; providing an alternative to individual plans for augmentation approved by the Water Court as a condition for the continued operation of wells; and, preventing interference with Colorado's obligations under the Rio Grande Compact.

Neither the creation of the Subdistrict nor the Plan will alter any vested surface water or groundwater rights. Nor shall the creation of the Subdistrict or the Plan expand any existing beneficial use of a water right or allow a water right to be used for a beneficial use not defined in a valid Decree or Permit.

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Water rights acquired or retired by the District on behalf of the Subdistrict will only be used to protect water users, including without limitation, for replacement of injurious stream depletions to senior surface water rights resulting from Subdistrict Well withdrawals and to sustain aquifer or hydrostatic pressure levels as required by statute or regulations. Acquired and/or retired water rights will not be used for purposes inconsistent with the Plan.

If a farm owner or operator elects to temporarily reduce the amount of land under groundwater irrigation in order to achieve the goals of the Plan, and such reduced irrigation is for conservation purposes or to assist in the remedy of injurious depletions to senior water rights, such reduced irrigation will not be considered to be a period of non-use for purposes of abandonment or reductions in the water right, as provided by law. See, e.g., section 37-92-103, C.R.S.

**V. SUBDISTRICT GOVERNANCE**

The Subdistrict is a political subdivision of the District and subject to the supervision of the Board of Directors of the District. An eleven member Board of Managers will be selected in the manner provided for in the Petition for Establishment of Special Improvement District No. \_\_ of the Rio Grande Water Conservation District and will govern the Subdistrict.

The Board of Managers will adopt by-laws to govern compensation of the Board of Managers. The compensation of Board of Manager may not exceed the compensation of the Board of Directors of the District. Managers may also be entitled to their actual traveling and transportation expenses when away from their respective places of residence on Subdistrict business.

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**VI. DEVELOPMENT OF PLAN OF WATER MANAGEMENT**

After formation of the Subdistrict, the Board of Managers will use this conceptual Plan to develop a detailed Plan of Water Management. Following a public hearing, the detailed Plan will be presented to the Board of Directors of the District for consideration and adoption as the official Plan of the Subdistrict pursuant to the terms of section 37-92-501(4)(c), C.R.S. Once District Board approved, the Plan will be submitted for consideration and approval by the State Engineer in accordance with section 37-92-501(4)(c), C.R.S.

The Plan must be implemented within the first year following final approval of the Plan and every year thereafter.

**VII. FINANCING THE SUBDISTRICT**

The Plan will require that Subdistrict members contribute financially to the Subdistrict to ensure success of the Plan. The Plan must generate sufficient revenues to fund the operations of the Subdistrict which may include, without limitation, the replacement or remedy of any injurious depletions calculated to occur to senior surface water rights as the result of Subdistrict and contract well groundwater withdrawals, and, if necessary, the retirement or temporary fallowing of sufficient acres within the Subdistrict to reach a sustainable water supply in the confined aquifer system underlying the Alamosa-La Jara Response Area in compliance with duly enacted and approved rules and regulations.

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

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The Subdistrict shall set fees based on the detailed annual budget developed by the Subdistrict Board of Managers concerning the operation of an Annual Replacement Plan (“ARP”) of the next calendar year. The budget shall specifically describe the revenues required to pay for each of the planned expenditures, and the nature and amount of each of the specific fees or assessments proposed to generate such revenues. The Subdistrict shall be limited to expenditures in the amounts and for the purposes specified in the budget, including the establishment of a reasonable reserve fund, unless an amended budget is adopted, after proper notice, in accordance with the provisions of Colorado law.

At the present time, the Subdistrict expects to rely primarily upon an annual Administrative Fee and an annual Groundwater Withdrawal Fee to finance the operation of the Subdistrict and its Plan, although the Subdistrict may need to use other methods to have the District, on the Subdistrict’s behalf, acquire water rights, construct improvements or finance other large investments. The Subdistrict will assess an Administrative Fee and a Groundwater Withdrawal Fee that will be evaluated, and if appropriate, adjusted by the Board of Managers annually in response to the demands of the Plan. The method used to calculate the Groundwater Withdrawal Fee will ensure that landowners who withdraw the least amount of groundwater from Subdistrict Wells will pay the lowest Groundwater Withdrawal Fees.

Only Subdistrict lands and associated water use (i.e., those lands upon which groundwater is put to a beneficial use, where the landowners or representatives legally authorized to act on behalf of the landowners, sign the Petition seeking formation of the Subdistrict) will be subject to assessment by the Subdistrict. Wells that are operating within a court approved plan for augmentation, prior to or after Subdistrict formation, or operated as a



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decreed alternate point of diversion for surface water, will not be subject to assessment to the extent the impacts from groundwater withdrawals are fully replaced under the plan for augmentation. Groundwater withdrawals outside of an approved plan for augmentation will be subject to assessment.

The total annual Administrative and Groundwater Withdrawal Fee will be submitted to the District Board for approval and then certified to each County with Subdistrict lands for addition to the tax rolls for collection in accordance with Colorado law. **In the event of non-payment, these financing methods may result in a lien on a constituent's property.**

**A. Administrative Fee**

The Subdistrict will assess an Administrative Fee. The expected range of the Administrative Fee (in 2016 dollars) is \$300 to \$800 per Subdistrict Well WDID to provide sufficient revenue to fund the operations of the Subdistrict, including: cost of providing staff, engineering, legal, and office space; a reasonable reserve fund; and, to repay the District the sum agreed upon by the Subdistrict and the District for expenses which are incurred after Subdistrict formation but prior to initial fee collection and paid up front by the District. Where multiple wells are combined through a single meter, providing a single total groundwater withdrawal amount, the Subdistrict may consider such a combined system to be a single WDID for purposes of assessing the Administrative Fee. Pursuant to rules and regulations duly adopted and approved by the Board of Managers of the Subdistrict and the Board of Directors of the District, the Subdistrict may allow reduced or eliminated Administrative Fees for wells that are inactive or abandoned pursuant to a Subdistrict conservation plan.

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**B. Groundwater Withdrawal Fee**

Costs of acts and improvements under the Plan will be funded by a Groundwater Withdrawal Fee assessed on the withdrawal of groundwater by Subdistrict wells. The expected range of the Groundwater Withdrawal Fee (in 2016 dollars) is \$10 to \$50 per acre-foot of groundwater withdrawn. Well withdrawals will be determined by using official records of the State of Colorado where these are available. The Groundwater Withdrawal Fee may be a two-part fee, based on impact to the sustainability of the confined aquifer and broad classes of wells net impacts on surface streams and senior surface water rights. If a well is operating under a decreed plan for augmentation, administratively approved Substitute Water Supply Plan or similar plan, it will not be assessed a Groundwater Withdrawal Fee with the exception of any amount of groundwater withdrawn that is protected by the Plan rather than by the plan for augmentation. The Subdistrict will assess the Groundwater Withdrawal Fee one year in arrears and will base the Groundwater Withdrawal Fee on a rolling average of acre-feet withdrawn over the 5 years preceding that assessment.

The Groundwater Withdrawal Fee will be determined by the Board of Managers on an annual basis, in an amount necessary to fund the Subdistrict's acts and improvements (as summarized in Section VIII below). The total Groundwater Withdrawal Fee for a given year shall be limited to the amount shown by specific items in the budget, as required, to provide sufficient revenue for that year for the Subdistrict acts and improvements specified in the budget, including, but not limited to: protection of senior surface water rights; funds to support a portfolio of water and/or funds to cover post-plan depletions; permanent retirement and/or annual

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fallowing of lands; establishment of a reasonable reserve fund; and, any necessary infrastructure improvements.

Pursuant to rules and regulations duly adopted and approved by the Board of Managers of the Subdistrict and the Board of Directors of the District, the Subdistrict may allow reduced or eliminated Groundwater Withdrawal Fees for a Subdistrict Well owner who provides replacement water, land or facilities for the benefit of the Subdistrict pursuant to a Subdistrict conservation plan.

**C. Post-Plan Depletions**

The current version of the RGDSS model shows that depletions from wells in the Alamosa-La Jara Response Area can take as long as 15 years from the date of groundwater withdrawal to fully accrue to the surrounding rivers and streams. The Subdistrict will be required to establish a portfolio consisting of water, cash, line of credit, guarantor, forbearance or other financial mechanism to guarantee remedy of these post-plan depletions attributable to groundwater withdrawals from Subdistrict Wells in the event the Subdistrict Wells are no longer allowed to make withdrawals. The portfolio will be funded through the Groundwater Withdrawal Fee. The Division of Water Resources has indicated that Subdistricts will have to demonstrate that they have such a portfolio in place as a condition of the Division of Water Resources' approval of any ARP.

Should wells not be allowed to continue to withdraw groundwater because Subdistrict Objectives and Goals are not being met, the Subdistrict may continue to assess fees until all injurious depletions caused by past groundwater withdrawals from Subdistrict wells have been remedied. Further, if the Board of Managers does not submit an ARP that provides a remedy for

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injury caused by post-plan depletions, the Board of Directors of the District may develop an ARP to remedy those post-plan depletions and set Administrative and Groundwater Withdrawal Fees in such amounts as are necessary. In such circumstances, the Board of Managers or Board of Directors may base the Groundwater Withdrawal fee on some previous time-period of groundwater withdrawals per Subdistrict or Contract Well.

Landowners who own wells that have been removed from the Subdistrict's ARP for noncompliance, as provided for in the Section VIII, below, will be required to replace or otherwise remedy any post-plan depletions attributable to those wells that have yet to accrue to the surrounding rivers and streams.

**D. Contracting**

To the extent permitted by law, the Subdistrict may contract or enter into cooperative agreements with other well owners, water users, mutual ditch or reservoir companies, water user's associations, subdistricts, governmental entities and other persons or entities within or without the boundaries of the Subdistrict to advance the Plan Goals and Overall Objective.

To the extent permitted by law, in accordance with rules to be adopted by the Subdistrict and approved by the District, the Subdistrict may recommend and request that the Board of Directors of the District contract with well owners that are not members, within or outside of the Alamosa-LaJara Response Area, of the Subdistrict to further the Subdistrict Goals and Objectives. Such contracts may be subject to inclusion fees, different Administrative and Groundwater Withdrawal Fees than those charged to Subdistrict Landowners, and/or additional terms and conditions as the Board of Managers may deem necessary to meet the goals of the Subdistrict. Rules adopted for this purpose must provide that the Subdistrict Board of Managers

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may only contract with well owners to include wells in the Plan if the impacts from the wells can be determined using the methodology the Subdistrict will use to calculate injurious depletions from Subdistrict wells, or otherwise have an approved alternate method of calculating injurious depletions.

The Subdistrict may recommend and request that the Board of Directors of the District contract with willing surface water rights holders to purchase or lease water for recharge, storage, or other means of augmentation or replacement to address stream depletions from the operation of Subdistrict wells, and to purchase or lease lands associated with such water. The Subdistrict may also recommend and request that the Board of Directors of the District contract with surface water right holders to purchase or lease any available surplus augmentation credits from qualifying court approved plans for augmentation.

### **VIII. ACTS AND IMPROVEMENTS**

In order to further the objectives and goals of the Plan, the Subdistrict intends to implement some or all of the actions in the following non-exclusive list of acts or improvements:

1. Engineering, geological, legal and other studies and analyses of the various means available to meet the goals of the Plan and desirable ways of implementing those means.
2. Calculation and replacement or remedy of injurious stream depletions to senior surface water rights.
3. Through the District, negotiation and implementation of forbearance agreements to protect senior surface rights.

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4. Through the District, purchase, rental, lease or other acquisition of water rights, irrigated lands and/or reservoir storage, either within or without the exterior boundaries of the Subdistrict.
5. Through the District, construction, acquisition, improvement and operation of ditches, head gates, and other facilities to make the best use of available water.
6. Infrastructure improvements to maximize the diversion, storage, recharge, delivery and use of water available to Colorado under its Compact allocation.
7. Monitoring and calculation of increases and decreases in groundwater levels and/or of aquifer pressures and development of means to maintain aquifer sustainability.
8. Through the District, construction, acquisition, improvement and operation of facilities and/or lands for groundwater recharge.
9. Pursuit of changes of water rights, exchanges, plans of water management, plans for augmentation, substitute water supply plans or other judicial or administrative proceedings to implement or defend the Plan or otherwise protect the interests of the Subdistrict.
10. Accounting for the operation of the Plan and assisting in its operation and administration.
11. A program or programs of temporary or permanent fallowing or other water conservation measures by providing economic incentives, potentially in cooperation with federal programs.

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12. Calculation of increases and decreases in groundwater conditions.
13. Provide economic incentives for Landowners or non-members to provide replacement water, land, or facilities for the benefit of the Subdistrict.
14. Data collection and analysis programs designed to verify and improve RGDSS groundwater model predictions, further refine the calculation of stream depletions caused by groundwater withdrawals, or otherwise help the Subdistrict achieve Plan objectives and goals.
15. Work in cooperation with USDA-NRCS, NWS, NOAA and others to develop annual water supply forecasts based on SNOTEL and snow course data.  
  
Determine historical stream flow volumes based on paleo dendrochronology or other methods to correlate precipitation to rim inflows.
16. Education and research into water conservation, water use efficiency, improved water management, and public education on agricultural water use.

This is a non-exclusive list of acts and improvements. The Subdistrict may elect to implement acts and improvements not specifically set forth herein to further the goals and objectives of the Plan.

**By voluntarily petitioning land into the Subdistrict, Landowners explicitly authorize, and agree to abide by, any groundwater allocations or limits imposed by the Board of Managers either by individual well or by farm unit. Landowners further**

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**understand and agree that the Board of Managers may impose economic disincentives or penalties, up to exclusion from the ARP, reasonably necessary to further the goals or objectives of the Plan or to comply with Colorado law. These covenants, as specifically set forth in the Individual Petition, will run with the land petitioned into the Subdistrict and bind all current and future owners of Subdistrict Lands.**

The Plan will operate for an indefinite period to achieve replacement of injurious depletions to senior surface water rights resulting from groundwater withdrawals and to insure that the aquifer systems are in a sustainable condition. At such time the operation of groundwater wells in the Subdistrict are not causing injurious stream depletions to senior surface water rights, the groundwater supply in the aquifer systems within the Subdistrict are sustainable, with due regard to the daily, seasonal, and long-term demands on the groundwater supply and all other purposes for which the Subdistrict has been organized are permanently accomplished and, all obligations, including all post-plan injurious depletions, of the Subdistrict have been satisfied, the Subdistrict can be dissolved.

**A. Calculation and Replacement of Injurious Impacts to Senior Surface Water Rights Resulting from Subdistrict Well Withdrawals**

The Subdistrict will comply with the current and future requirements of the Rules Governing the Withdrawal of Groundwater in Water Division No. 3 to calculate depletions to surface streams caused by the withdrawal of groundwater through Subdistrict Wells. The Subdistrict will similarly comply with the current and future requirements of the Rules Governing the Withdrawal of Groundwater in Water Division No. 3 to predict the time, location and amount of replacement water to surface water streams. The Subdistrict may utilize other



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appropriate methodologies to aid in the calculation of stream depletions resulting from Subdistrict well withdrawals and the calculation of benefits from recharge or other operations.

**B. Measurement of Hydrostatic Pressure in the Confined Aquifer**

In order to monitor and measure the artesian pressure in the confined aquifer to comply with the requirements of section 37-92-501(4), C.R.S., and any duly adopted rules and regulations, the Subdistrict may identify or assist in the identification of one or more confined aquifer monitoring wells and, where appropriate, identify other features useful to monitor the hydrostatic pressure in the confined aquifer in areas where the aquifer is affected by the groundwater withdrawals of Subdistrict wells. The Subdistrict may also develop and implement a monitoring program for measuring the changes in the artesian pressure in the confined aquifer system within areas affected by the groundwater withdrawals of Subdistrict wells or take such other measures to develop data and information to monitor the hydrostatic pressure. The Subdistrict may cooperate with other Subdistricts or entities in the San Luis Valley to monitor, recover and/or maintain artesian pressure in the confined aquifer throughout the San Luis Valley as this Subdistrict alone cannot regulate and/or maintain artesian pressure in the entire confined aquifer.

**C. Land Fallowing Goals**

The Subdistrict may utilize financial incentives, alone or together with other programs to further land fallowing goals within the Subdistrict in order to promote Subdistrict goals and objectives.

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**D. Reduction in Confined Aquifer Well Withdrawals**

A reduction in total amount of groundwater withdrawals from the confined aquifer system by Subdistrict Wells may be necessary to ensure prevention of material injury to surface water rights and/or to restore and maintain artesian pressure levels in the confined aquifer in compliance with Section 37-92-501(4), C.R.S. and the Rules Governing the Withdrawal of Groundwater in Water Division No. 3.

**E. Annual Accounting Mechanism to the State Engineer**

The Subdistrict shall submit to the Division Engineer all information required by Rules Governing the Withdrawal of Groundwater in Water Division No. 3 or as otherwise required by the Division Engineer through approval of a Plan or future ARP.

**F. Other Management Tools**

The Board of Managers will adopt by-laws, rules, regulations and/or guidelines to facilitate the operation of the Subdistrict. In order to manage groundwater use within the Subdistrict, the Subdistrict may use some or all of the following policies:

1. Annual groundwater withdrawal allocations and limits.
2. Economic disincentives for excessive or inefficient groundwater use.
3. Economic or other penalties for violating Subdistrict rules or regulations.
4. Monthly groundwater meter reporting to the Subdistrict.

**G. Appeal Procedures**

In order to insure that all Subdistrict landowners receive fair and equal treatment, the Board of Managers will consider appeals by such landowners if the Subdistrict Fees are

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considered inaccurate or in error. The Board of Managers may hear any such appeal or may choose to appoint a hearing officer to hear any such appeal and make a recommendation to the Board. If it is determined that an error was made, an adjustment will be made in computing the subsequent year's Subdistrict Fees or be refunded. The Board of Managers may adopt rules and regulations to govern such appeals or for any other appeals the Board of Managers deems necessary. In the absence of such regulations, the provisions of the Colorado Administrative Procedures Act will apply.

**H. Use of Contract Funds**

Any funds collected from contracts with non-Subdistrict entities will be applied to advance the Plan objectives and goals or to offset the administrative costs of operating the Subdistrict.

**IX. CURRENT DATA REGARDING SUBDISTRICT IMPACTS**

Exhibit G - Response area summary attached hereto.

Exhibit H – Rule 8.1.5 and 8.1.6 Annual groundwater withdrawal memo attached hereto.