

<p>DISTRICT COURT, CONEJOS COUNTY, COLORADO</p> <p>Conejos Combined Court 6683 County Road 13 P.O. Box 128 Conejos, CO 81129</p>	<p>DATE FILED: October 25, 2016 10:17 AM FILING ID: 3C72694EFE7D7 CASE NUMBER: 2016CV30021</p>
<p>IN THE MATTER OF THE RIO GRANDE WATER CONSERVATION DISTRICT,</p> <p>CONEJOS COUNTY,</p> <p>Rio Grande Water Conservation District 8805 Independence Way Alamosa, Colorado 81101 Telephone: 719-589-6301</p> <p>PETITIONER.</p>	<p>▲ Court Use Only ▲</p>
<p>David W. Robbins, #6112 Peter J. Ampe, #23452 Hill & Robbins, P.C. 1660 Lincoln Street, Suite 2720 Denver, CO 80264 Phone: 303-296-8100 Fax: 303-296-2388 E-mail: davidrobbins@hillandrobbins.com peterampe@hillandrobbins.com</p>	<p>Case Number: 2016CV _____</p>
<p>PETITION FOR ESTABLISHMENT OF SPECIAL IMPROVEMENT DISTRICT NO. 3 OF THE RIO GRANDE WATER CONSERVATION DISTRICT</p>	

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

1. The statutory authority for this Petition and for the establishment of the proposed subdistrict is Chapter 37, Article 48, C.R.S., and specifically sections 37-48-108 and 37-48-123.
2. The proposed name of said subdistrict is "Special Improvement District No. 3 of the Rio Grande Water Conservation District." ("Subdistrict").

Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

3. The property within the proposed Subdistrict will be benefited by creation and effectuation of the Subdistrict's Plan of Water Management ("Plan") to conserve and stabilize the water supply and groundwater storage in the aquifers underlying the Conejos Response Area for irrigation, commercial, industrial, municipal and other beneficial uses for the water users within the boundaries of the Subdistrict and by allowing Subdistrict Wells to operate without administration by the State Engineer. The estimated cost of the plan will not exceed \$3.0 million per year in 2015 dollars, including: the annual costs of operation and administration; the prevention of injury to senior vested water rights; if necessary, the protection and/or recovery of the level of hydrostatic pressure in the confined aquifer system underlying the Rio Grande Decision Support System Conejos Response Area; and, the prevention of unreasonable interference with the state of Colorado's ability to fulfill its obligations under the Rio Grande Compact. The anticipated benefits from the plan may include a sustainable supply of water from the confined and unconfined aquifers for groundwater users, higher average groundwater levels, and the avoidance of administration of groundwater withdrawals in the proposed Subdistrict by the State Engineer.

4. The territory to be included in the proposed Subdistrict is territory within the Rio Grande Water Conservation District. A map of the proposed territory is attached as Exhibit A and is made a part of such Petition by reference. The description of the proposed territory is included as Exhibit B, which is attached to this Petition and is made a part of such Petition by reference. A list of the current Subdistrict Wells providing ground water to Subdistrict lands is included as Exhibit C, which is attached to this Petition and is made a part of such Petition by reference.

Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

5. Pursuant to section 37-48-123(2)(e), C.R.S., the methods proposed to finance the Subdistrict Plan may include:

- A. Service and user fees to be assessed on the property benefited by the plan for the benefits to be conferred by the Subdistrict on any person or property;
- B. Special Improvement Bonds to be paid by special assessments on the property benefited by the Plan in an amount on each tract not in excess of the appraised benefits; and,
- C. The imposition of an ad valorem mill levy on all taxable property in the Subdistrict sufficient in amount to raise the funds to pay any amount due on any contract, lease, or general obligation bond installment.

The annual revenues from all fees, assessments, or levies on all property within the Subdistrict shall not exceed \$3.0 million per annum, in 2015 dollars. These proposed methods of financing are automatically authorized by the signatures of a majority of the landowners within the proposed Subdistrict on petitions to the Board of Directors of the Rio Grande Water Conservation District for formation of the Subdistrict, and by those on this Petition, and without further election.

6. Petitioners request that a Board of Managers composed of seven (7) members and one (1) ex officio member, be established to carry out the general supervision and operational management of the Subdistrict. The Board of Managers will be appointed by the Rio Grande Water Conservation District Board of Directors based on the geographical distribution requirements described below. The geographic distribution is shown in the attached map as Exhibit D:

Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

- A. Each member of the Board of Managers must: (1) be the owner or representative of an owner of a subdistrict well and must own land included within the Subdistrict or be a designated representative of a landowner with land included within the Subdistrict; or (2) be the owner of a well with a valid contract with the Subdistrict that will not expire during the term such person will serve on the Board of Managers, or the representative of an owner of a such a well, except, for the first Board of Managers appointed after formation of the Subdistrict, a letter of intent to contract with the Subdistrict will be sufficient to establish eligibility under this paragraph 6.A.2 and a valid contract is not necessary. Representative of an owner, as used in this paragraph, is limited to a full time employee of the landowner specifically charged with the management and operation of a farm unit.
- B. The Rio Grande Water Conservation District Board must choose members of the Board of Managers so that each of the following interests is represented on the Board of Managers:
- i. one (1) member with well with a point of diversion south of Conejos County Road G;
 - ii. two (2) members with wells with a point of diversion east of Conejos County Road 17 and north of Conejos County Road G;
 - iii. three (3) members with wells with a point of diversion west of Conejos County Road 17 and north of Conejos County Road G;
 - iv. one (1) member with a valid contract with the Subdistrict.

Case No. 2016CV_____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

- C. The ex officio member will be appointed directly by the Rio Grande Water Conservation District Board of Directors and will be a member of the Board of Directors but does not have to be a landowner or legal representative of a landowner in the Subdistrict. The ex officio member will only vote to break a tie.
- D. Within thirty (30) days of final judicial approval of creation of the Subdistrict, and thereafter when vacancies on the Board of Managers occur, individuals wishing to volunteer to serve on the Board of Managers will so notify the Rio Grande Water Conservation District's General Manager in writing.
- E. Members of the Board of Managers will serve staggered 4 year terms with no limit upon the number of terms an individual manager may serve. One member from each of the interests listed in paragraph 6.B.i. through 6.B.iii, above, will serve an initial term of 2 years. The Member appointed under Paragraph 6.B.iv will serve an initial term of 4 years. The ex officio member will serve a term of indeterminate length at the pleasure of the Board of Directors.
- F. If no qualified individual from a particular interest, as outlined above, volunteers to serve for an expiring seat on the Board of Managers or if a seat on the Board of Managers becomes vacant within the term of such seat, then the Board of Directors shall be free to, but not required to, make an appointment of its choosing, meeting the applicable criteria. An appointment to fill a vacant seat shall be for remainder of term of such seat.

Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

The Board of Managers will select from among its members one member to serve as president of the Board and may select such other officers as it deems necessary. Each Manager shall have one vote; the ex officio member will only vote to break a tie.

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

7. October of each year, the Board of Managers will provide a written report to the Rio Grande Water Conservation District Board detailing the prior year's operations, achievements, expenditures, and budget, as well as the anticipated operations, expenditures, and budget for the coming year. The annual report will include a certification of the total amount of Subdistrict assessments to be levied in the coming year, subject to final approval by the Rio Grande Water Conservation District Board of Directors prior to December 1st. In addition, the Board of Managers will consult with the Rio Grande Water Conservation District Board on an as needed basis to obtain approval for contract bids, acquisition of property, and other matters for which the Rio Grande Water Conservation District Board approval is required.

8. The scope of responsibility of the Board of Managers shall include the authority to:

Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

- A. prepare and submit an official Subdistrict Plan for approval by the Rio Grande Water Conservation District and take such future actions to comply with the approved Plan;
- B. determine the amount, if any, of acreage served with groundwater that must be withdrawn from Subdistrict and contract wells under varying hydrologic conditions or determine the manner in which injurious depletions to senior surface water rights caused by withdrawal of groundwater by Subdistrict Wells will be replaced to the affected streams or what other means, other than providing water, may be used in order to remedy injury to senior water rights and to achieve the aquifer sustainability requirements of then valid rules and regulations of the Colorado Division of Water Resources and Senate Bill 04-222;
- C. cooperate with the Rio Grande Water Conservation District Board of Directors to execute and operate all works and improvements in the Subdistrict Plan;
- D. solicit and approve bids, and recommend their acceptance by the Rio Grande Water Conservation District Board of Directors, for contracts to carry out the works and improvements in the Subdistrict Plan;
- E. recommend and request that the Rio Grande Water Conservation District Board of Directors enter into any other contracts reasonably necessary to effectuate the purposes of the Plan, including contracts with United States and state governments, corporations, special districts, municipalities and other public and private entities to remedy injurious depletions caused by the withdrawal of groundwater within or outside of the Subdistrict and for other purposes;

Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

- F. request that the Rio Grande Water Conservation District retain employees and other personnel in conjunction with or separate and apart from the Rio Grande Water Conservation District;
- G. monitor measurement devices and collect scientific data in order to effectuate the purposes of the Plan;
- H. after consultation with, and with the approval of the Board of Directors, enter upon any lands within or without the Subdistrict to make surveys and examinations necessary for the express purpose for the operational activities of the Subdistrict only;
- I. after consultation with, and with the approval of, the Board of Directors, improve any watercourse and alter or remove any structure connected to a watercourse, as reasonably necessary to effectuate the Plan, with any costs and notices to be undertaken as provided in section 37-48-132, C.R.S.;
- J. recommend and request that the Board of Directors of the Rio Grande Water Conservation District purchase, lease, or acquire property as reasonably necessary to effectuate the purposes of the Plan in coordination with the Board of Directors of the Rio Grande Water Conservation District and sell or convey such property that is no longer reasonably necessary to effectuate the purposes of the Plan in coordination with the Board of Directors of the Rio Grande Water Conservation District;
- K. recommend and request that the Board of Directors of the Rio Grande Water Conservation District acquire and use water rights or other property by purchase

Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

or long or short term leases with or without a pledge of general or specific revenues of the Subdistrict;

- L. annually determine and certify to the Rio Grande Water Conservation District Board of Directors the total amount of assessments to be levied, subject to final approval and levy by the Rio Grande Water Conservation District Board of Directors; and
- M. conduct any other functions and duties as provided for the Board of Managers in sections 37-48-123 C.R.S. *et seq.*, and in particular, sections 37-48-127 to 37-48-133.

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

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

10. A conceptual Plan for the Subdistrict has been proposed and is attached hereto as Exhibit F and incorporated herein by this reference. The Plan is designed to provide a mechanism to prevent injury to senior vested water rights, prevent unreasonable interference with the state of Colorado's ability to fulfill its obligations under the Rio Grande Compact, provide an alternative to state administration of groundwater withdrawals in the proposed subdistrict, achieve and maintain a sustainable water supply in each aquifer system, with due

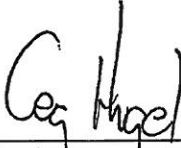
Case No. 2016CV _____
PETITION FOR THE ESTABLISHMENT
OF SUBDISTRICT NO. 3

regard for the daily, seasonal, and long-term demand for underground water, as may be required by Colorado law and, if necessary, reduce the total amount of groundwater consumption occurring within the Subdistrict and an equitable means to finance that reduction.

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

WHEREFORE, the undersigned qualified petitioners hereby pray for the organization of said territory as a Subdistrict of the Rio Grande Water Conservation District, to be called "Special Improvement District No. 3 of the Rio Grande Water Conservation District" pursuant to the provisions of section 37-48-123, C.R.S. and the unanimous resolution of the Board of Directors of the Rio Grande Water Conservation District.

Signed by: _____


Greg Higel
President, Rio Grande Water Conservation District