

# Groundwater Management Plan

## Groundwater Management Subdistrict of the Trinchera Water Conservancy District

Effective Date: \_\_\_\_\_, 20\_\_

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## GROUNDWATER MANAGEMENT PLAN

The Board of Directors of the Groundwater Management Subdistrict of the Trinchera Water Conservancy District (“Trinchera Subdistrict” or “Subdistrict”), submits the following Groundwater Management Plan, a/k/a Plan of Water Management (“GMP”). This GMP is consistent with a Groundwater Management Plan as defined in and meets the requirements laid out in 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 (approved in Case No. 15CW3024, District Court, in and for Water Division No. 3) (the “Groundwater Rules”).

### 1.0 DEFINITIONS

1.1 “Administrative Fee” means a fee assessed by the Board of Directors on a per well WDID basis and used to fund the administrative portion of the Plan Costs, including services provided by the Rio Grande Water Conservation District and other services, the engineering and legal costs associated with developing the GMP and obtaining DWR approval, and costs of resolving any associated appeals to the courts, the costs of obtaining approval of ARPs, the costs of operating the GMP and ARPs, and the costs of changing any water rights or obtaining rights of exchange, if necessary. The Administrative Fee will be a flat fee that is charged per well. This fee may vary from year to year.

1.2 “Annual Replacement Plan” or “ARP” has the same meaning as that defined by the Groundwater Rules.

1.3 “Aquifer” means the Unconfined Aquifer that underlies the Trinchera Subdistrict and the Trinchera Response Area defined in the Groundwater Rules.

1.4 “ARP Year” means May 1st of the then current year through April 30th of the subsequent year.

1.5 “Board of Directors” means the Board of Directors of the Trinchera Subdistrict.

1.6 “Calendar Year” means January 1st through December 31st of each year.

1.7 “Class A assessment” means the tax that may be imposed by the Subdistrict under C.R. S. § 37-45-122.

1.8 “Class B assessment” means the special assessment that may be assessed to petitioning municipalities by the Subdistrict under C.R. S. § 37-45-123.

1.9 “Class C assessment” means the special assessment that may be assessed to petitioning public corporations, other than municipalities, by the Subdistrict under C.R. S. § 37-45-124.

1.10 “Class D assessment” means the special assessment that may be assessed to petitioning owners of land by the Subdistrict under C.R. S. § 37-45-125.

1.11 “Contract Well” means a well that is included via a formal agreement between the Subdistrict and the well owner pursuant to C.R. S. § 37-45-131 to include within the GMP and its ARPs as a groundwater well that diverts from the Aquifer as a Subdistrict Well.

1.12 “Current Pumping Fee” means a fee assessed by the Board of Directors to a Farm Unit, sufficient to cover the Plan Costs not covered by the Administrative Fee, including the costs of replacement supplies to cover stream depletions, and other costs associated with pumping and depletions during the current ARP year, including but not limited to payments under agreements to remedy stream depletions other than by providing replacement water, and costs required to achieve and maintain a Sustainable Water Supply. The Current Pumping Fee will be assessed based upon ground water consumptive use allotments and may vary from year to year.

1.13 “DWR” means the Colorado Division of Water Resources.

1.14 “Farm Unit” refers to all lands under the control and management of an Owner or Operator. A Farm Unit may include lands and Subdistrict Wells owned by multiple landowners.

1.15 “Farm Unit Allocation” means the total net groundwater consumptive use from the Aquifer allocated by the Board of Directors to Subdistrict Wells within a Farm Unit for an ARP Year.

1.16 “Ground Water Management Plan” or “GMP” has the same meaning as defined by the Groundwater Rules.

1.17 “Groundwater Rules” means the rules promulgated by the State Engineer titled 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 (approved in Case No. 15CW3024, District Court, in and for Water Division No. 3 approved on and effective March 15, 2019) as currently promulgated or as they may exist in the future.

1.18 “Inactive Well” has the same meaning as that defined by the Measurement Rules.

1.19 “Injurious Stream Depletions” has the same meaning as defined by the Groundwater Rules.

1.20 “Measurement Rules” means the Rules Governing the Measurement of Ground Water Diversions located in Water Division No. 3, the Rio Grande Basin, adopted by the State Engineer and approved by the District Court, in and for Water Division No. 3, Case No. 2005CW12 (August 1, 2006).

1.21 “Natural Prairie” is Natural Prairie Colorado Farmland Holdings, LLC and its successors.

1.22 “Natural Prairie No Call Agreement” is the proposed agreement among Natural Prairie Colorado Farmland Holdings, LLC, the Trinchera Irrigation Company, the Groundwater Management Subdistrict of the Trinchera Water Conservancy District, Trinchera Property Management, Inc., Trinchera Ranch Holdings, LLC and Blanca Ranch Holdings, LLC (collectively “Blanca Trinchera”), and Smith and Wakasugi RLLLP, which is attached and included in this GMP or any subsequent version of such agreement that is accepted by all of the parties thereto. There may be other no call, forbearance or similar agreements with Natural Prairie or with other parties in lieu of replacing injurious depletions in the future. These will not entail an amendment to this GMP and will be presented in future ARPs.

1.23 “Net Groundwater Consumptive Use” has the same meaning as defined by the Groundwater Rules.

1.24 “Non-Benefitted Lands” are lands that contain wells that are not covered by this GMP, either originally or as added by subsequent ARPs. Non-Benefitted Lands include lands that contain wells that are covered by this GMP for a period, but subsequently are removed from such coverage. Non-Benefitted Lands that contain wells that are covered by this GMP for a period, but subsequently are removed from such coverage, remain subject to payment of the Past Pumping Fee and to a lien to assure replacement of depletions if the Subdistrict ceases to function.

1.25 “Non-Exempt Well” means a well that is subject to the Groundwater Rules.

1.26 “Other Wells” means wells within the Trinchera Response Area that are not Subdistrict Wells.

1.27 “Owner” or “Owners” mean individuals or entities that own lands that are served by Subdistrict Wells or that own Subdistrict Wells.

1.28 “Operator” refers to the individual or entity that controls the operation of a Farm Unit.

1.29 “Overall Groundwater Consumptive Use Allocation” refers to the total amount of net ground water consumptive use from the Aquifer that is allocated by the Board of Directors to all Subdistrict Wells in an ARP Year. 1.30 “Over-Pumping Fee” means a fee assessed by the Board of Directors to a Farm Unit based upon the ground water consumptive use in excess of the Farm Unit Allocation that was assigned to the Farm Unit.

1.31 “Past Pumping Fee” means a fee assessed by the Board of Directors to a Farm Unit to provide replacement water or other means to prevent injury from Post-Plan Injurious Stream Depletions. Revenues from the Past Pumping Fee will be assigned to a separate lagged depletions account.

1.32 “Plan Costs” are the costs incurred by the Subdistrict in implementing and administering the GMP and its ARPs, including services provided by the Rio Grande Water Conservation District and other services, the engineering and legal costs associated with developing the GMP and obtaining DWR approval, and costs of resolving any associated appeals to the courts, the costs of obtaining approval of ARPs, the costs of operating the GMP and ARPs, and the costs of changing any water rights or obtaining rights of exchange, if necessary, and all other costs associated with (1) replacing or remedying injurious stream depletions attributable to Subdistrict Wells under approved ARPs, which will likely include, but is not limited to, the costs of purchasing water rights, and paying for the exercise of forbearance agreements; and (2) actions necessary to address sustainability requirements of the GMP.

1.33 “Post-Plan Injurious Stream Depletions” means Injurious Stream Depletions caused by the withdrawal of groundwater by Subdistrict Wells and calculated by the appropriate Response Functions or by some other method approved by the State Engineer that occur after the end of the ARP Year in which the groundwater withdrawal took place and are also known as lagged depletions.

1.34 “Response Area” has the same meaning as that defined by the Groundwater Rules.

1.35 “Response Functions” has the same meaning as that defined by the Groundwater Rules.

1.36 “RGDSS” has the same meaning as that defined by the Groundwater Rules.

1.37 “RGDSS Groundwater Model” has the same meaning as that defined by the Groundwater Rules.

1.38 “Rules and Regulations” or “Rules”, unless referring to rules promulgated by the State Engineer, means rules and/or regulations duly adopted by the Subdistrict Board of Directors.

1.38 “Subdistrict Board” means the Board of Directors of the Trinchera Subdistrict.

1.39 “Subdistrict Land” means all irrigated lands that are within the exterior boundaries of the Trinchera Subdistrict, as set forth in the Decree entered on September 3, 2008 by the District Court for Costilla County in Case No. 2007CV66, and subsequent orders of the Court approving petitions and orders of the Subdistrict Board for inclusion of land within the Subdistrict.

1.40 “Subdistrict Wells” means wells that are included in this GMP and whose Owners or Operators have agreed to be bound by this GMP, and its approved ARPs, either pursuant to petitions to the Subdistrict pursuant to C.R.S. §§ 37-45-123 through 125, or by contract pursuant to C.R.S. §§ 37-45-131.

1.41 “Sustainable Trinchera Water Supply” means a condition in which groundwater withdrawals and consumption are managed in accordance with the water levels within the Unconfined Aquifer underlying the Trinchera Response Area, the GMP and applicable ARPs.

1.42 “Trinchera Response Area” means the areal extent of the response area defined by the Groundwater Rules.

1.43 “Unconfined Aquifer” has the same meaning as that defined by the Groundwater Rules.

1.44 “Water Administration Year” has the same meaning as that defined by the Groundwater Rules.

1.45 “Water Conservation Program” means a program adopted by a water conservancy district to satisfy the provisions of C.R.S. § 37-93-103(2) and/or C.R.S. § 37-92-305(3)(c). The Trinchera Water Conservancy District has adopted, and the Trinchera Subdistrict has approved, a Water Conservation Program that affords the protections of C.R.S. § 37-93-103(2) and C.R.S. § 37-92-305(3)(c) to Subdistrict Wells and other water rights within the Trinchera Subdistrict.

1.46 “WDID” means a unique number assigned by the Colorado Division of Water Resources to a water diversion structure to be used as an identification number. The structure identification number and the water district are combined to create an ID number that is unique to each structure throughout the state.

1.47 Unless otherwise defined in this GMP, all of the terms used herein are intended to be defined in the same way as they are defined in the Groundwater Rules.

## 2.0 BACKGROUND AND BASIS FOR THE GROUNDWATER MANAGEMENT PLAN



## 2.1 Current Situation.

2.1.1 Owners and Operators within the Trinchera Subdistrict rely on groundwater for all or part of their commercial, municipal, industrial, irrigated agricultural practices and/or other permitted or decreed uses of water within the Trinchera Response Area. The RGDSS Groundwater Model has calculated stream depletions occurring to surface water streams caused by wells withdrawing water from the groundwater system within the Trinchera Response Area that cause injury to senior surface water rights or unreasonably interfere with the state's ability to fulfill its obligations under the Rio Grande Compact, codified in section 37-66-101, C.R.S. In order to remedy the injury or interference, the State Engineer has promulgated the Groundwater Rules that will have a direct impact on the future use of groundwater within the Trinchera Response Area.

2.1.2 The Groundwater Rules require that wells be regulated so as to achieve and maintain a Sustainable Water Supply in the Unconfined Aquifer with due regard for the daily, seasonal and long-term demand for underground water. This requirement will have a direct impact on the future use of groundwater within the Trinchera Response Area. The Aquifer serves as a valuable underground water storage reservoir with water levels that fluctuate in response to climatic conditions, water supply and water demands, and such fluctuations shall be allowed to continue.

2.1.3 The Trinchera Subdistrict was decreed organized on September 3, 2008 by the District Court for Costilla County in Case No. 2007CV66. The District Court for Water Division No. 3 ("Water Court") entered an order confirming the Subdistrict's ability, as a subdistrict of a water conservancy district, to submit a plan of water management. See ORDER GRANTING TRINCHERA SUBDISTRICT'S MOTION FOR DETERMINATION OF QUESTION OF LAW REGARDING AUTHORITY TO IMPLEMENT A GROUNDWATER MANAGEMENT PLAN dated October 7, 2016 in Case No. 2015CW3024, a copy of which is appended to this GMP as **Appendix A**.

2.1.4 The Trinchera Subdistrict is within the model domain of the RGDSS Groundwater Model, and this GMP is based upon using the RGDSS Model Response Functions for the Trinchera Response Area to determine stream depletions.

## 2.2 Subdistrict Lands and Subdistrict Wells.

2.2.1 **Appendix B** is a map of the Subdistrict Land.

2.2.2 **Appendix C** is a list of all wells that are currently included within this GMP and are Subdistrict Wells. Because the wells to be included as Subdistrict Wells are to be determined pursuant to the petition process described herein, which is

on-going, the Trinchera Subdistrict may update this list from time to time through ARPs without constituting an amendment of the GMP.

2.2.3 The GMP covers only those Subdistrict Wells, which can legally withdraw ground water for a beneficial use pursuant to a well permit, court decree, or both, and for which the Owner or Operator has agreed to participate in and be bound by this GMP, with the approval of the Subdistrict, pursuant to Class B, C, and D petitions to the Subdistrict under C.R.S. §§ 37-45-123 through 125, respectively, or pursuant to contract under C.R.S. § 37-45-131. To the extent that wells within the Subdistrict are operated under plans for augmentation that meet the requirements of the Groundwater Rules, such wells are not Subdistrict Wells and are not covered by the GMP.

2.2.4 Subdistrict Land is limited to lands served by Non-Exempt Wells that withdraw groundwater for a beneficial use that is located within Water Division No. 3. Where a well is used as a source of water for augmentation, substitution or exchange for another water right, such other water right must be diverted within Water Division 3 for a beneficial use located within Water Division No. 3.

2.2.5 To the extent permitted by law, the Subdistrict may, at the discretion of the Board of Directors, contract or enter into cooperative agreements with other well owners, water users, mutual ditch or reservoir companies, water users' associations, conservation districts, conservancy districts, subdistricts, governmental entities, Owners of Farm Units, and other persons or entities within or without the boundaries of the Subdistrict to advance the GMP goals and overall objective. In adopting a Rule for this purpose, the Subdistrict may contract with well owners whose well impacts are not determined by the Trinchera Response Area Response Functions, but can be determined by methods accepted under the Groundwater Rules, and whose impacts are similar to those of Subdistrict Wells.

2.2.6 Subdistrict Land will remain a part of the Subdistrict for as long as the Subdistrict is in existence.

### 2.3 Overall Objective and GMP Goals of the Trinchera Subdistrict.

2.3.1 The principal goals of the Subdistrict are to protect senior surface water rights, to allow Subdistrict Wells to continue to pump in accordance with the GMP and ARPs, to maintain a Sustainable Trinchera Water Supply and to avoid unreasonable interference with the state's ability to fulfil its obligations under the Rio Grande Compact. To achieve these goals, reducing and managing overall groundwater consumption is necessary.

2.3.2 Subdistrict Wells that divert groundwater from the Aquifer 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, the State of Colorado, through its administrative rules and regulations, may curtail the diversion of groundwater through Subdistrict Wells.

2.3.3 The overall objective of the GMP is to provide a water management alternative to individual plans for augmentation or state-imposed regulations that limit the use of wells within the Subdistrict; that is a system of self-regulation using economic-based incentives and other measures that promote responsible groundwater use and management and ensures protection of senior surface water rights. The operation of this GMP will comply with the applicable requirements of Senate Bill 04-222, codified at section 37-92-501(4), C.R.S., and any future amendments to this legislation.

#### 2.4 Effect of Groundwater Management Plan

2.4.1 Except as provided in paragraph 3.3.1, below, neither the creation of the Subdistrict nor this GMP will alter or affect any vested surface or groundwater rights. Nor shall the creation of the Subdistrict or this GMP expand any existing beneficial use or allow a water right to be used for a beneficial use not contained in a valid decree or permit.

2.4.2 The GMP will not alter or affect the ability of individual water users to exchange, trade, lease, or sell water from surface water diversions to the extent permitted by the articles of incorporation and bylaws of the affected ditch companies and Colorado law, provided that the exchange, trade, lease, or sale proposed does not expand the amount of water consumption.

2.4.3 Water rights acquired or retired by the Subdistrict, or its water activity enterprise, will be used to meet the requirements of the GMP, including without limitation, to replace Injurious Stream Depletions to senior surface water rights attributable to the Subdistrict Wells and to sustain or recover aquifer conditions as required by statute or regulations. Purchased or retired water rights will only be used for purposes consistent with this GMP.

2.4.4 The Trinchera Water Conservancy District has adopted, and the Trinchera Subdistrict has approved, a Water Conservation Program, a copy of which is attached as **Appendix D**. Under §§ 37-92-103(2), C.R.S. and 37-92-305(c), C.R.S., the Owner of a Subdistrict Well or of other water rights within the Trinchera Subdistrict may elect to temporarily reduce the amount of land under irrigation or otherwise reduce the consumptive use of water, and the period of non-use or reduced

use will not be considered to be a period of non-use for purposes of abandonment or reductions in the associated water right, to the extent provided by law.

2.4.5 In remedying Injurious Stream Depletions from Subdistrict Wells, it is not the intent of the Subdistrict to allow or assist in the expansion of historical consumptive use of groundwater above that currently existing under valid permits or decrees. The Subdistrict and this GMP or ARP cannot be used as a source of water for new or expanded plans for augmentation or other replacement plans without the approval of both the Water Court and the Subdistrict's Board of Directors. The Board of Directors will not approve the use of the GMP or the ARP as a source for replacement of a new or expanded use if it would adversely affect the Subdistrict's ability to satisfy its obligation to replace Injurious Stream Depletions or its ability to achieve and maintain a Sustainable Water Supply.

## 2.5 Effective Date of GMP.

2.5.1 This GMP is only effective after approval of the State Engineer pursuant to the Groundwater Rules. If any objections are filed with the Water Court against the State Engineer's approval of the GMP, the GMP will become effective only after the Water Court or an appellate court issues an order approving the GMP.

2.5.2 The Subdistrict will remedy Injurious Stream Depletions that occur as a result of Subdistrict Well groundwater withdrawals made on or after the State Engineer's approval of the Subdistrict's first Annual Replacement Plan, as well as Post-Plan Injurious Stream Depletions affecting a surface stream from Subdistrict Well groundwater withdrawals in prior years and all Post-Plan Injurious Stream Depletions that will occur in subsequent years, as are capable of quantification using the RGDSS Groundwater Model as it currently exists or as it may exist in the future.

2.5.3 The Subdistrict will initiate its program to maintain a Sustainable Trinchera Water Supply following the approval of the first ARP in accordance with this GMP and the Groundwater Rules and continuing for each ARP Year thereafter.

## 3.0 DESCRIPTION OF GMP.

### 3.1 General GMP Description.

3.1.1 The Owners or Operators of Subdistrict Wells who have petitioned for coverage under the GMP are required to (1) contribute financially to and to take actions necessary to implement program(s) that the Board of Directors will initiate to ensure Injurious Stream Depletions to senior surface water rights resulting from Subdistrict Well groundwater withdrawals are replaced or otherwise remedied; (2) to maintain a Sustainable Trinchera Water Supply in the Aquifer; and (3) to reduce the

total amount of groundwater consumption occurring within the Subdistrict as necessary to achieve and maintain a Sustainable Trinchera Water Supply in the Aquifer.

### 3.2 Acts and Improvements.

3.2.1 To further the goals and objectives of the GMP, the Subdistrict intends to implement some or all of the following non-exclusive list of acts or improvements, at the discretion of the Board of Directors. The following list is deliberately general. Specific acts or improvements, the implementation thereof, or the addition of other acts or improvements not listed herein may be provided in ARPs, without requiring the amendment of this GMP. The Subdistrict also may describe, limit or otherwise condition its acts or improvements through the adoption of Rules.

3.2.1.1 Calculating and replacing or remedying Injurious Stream Depletions, including but not limited to the negotiation, entry and implementation of agreements that allow the remedy of injurious stream depletions other than by replacement.

3.2.1.2 Setting an annual Overall Groundwater Consumptive Use Allocation and annual allocations for Subdistrict Wells.

3.2.1.3 Maintaining a Sustainable Trinchera Water Supply.

3.2.1.4 Purchasing, renting, leasing or retiring of irrigated lands; purchasing, renting or leasing of water rights or reservoir storage, either inside or outside the exterior boundaries of the Subdistrict, to achieve the goals of the GMP.

3.2.1.5 Implementing a program of temporary fallowing, including economic incentives for temporary fallowing, to remove acreage from production to achieve reduction in groundwater consumption necessary to achieve the goals of the GMP.

3.2.1.6 Providing economic credits or incentives for Owners and third parties to provide replacement water, land, or facilities for the benefit of the Subdistrict.

3.2.1.7 Implementing a recharge program.

3.2.1.8 Developing a groundwater level monitoring program.

3.2.1.9 Implementing infrastructure improvements to maximize the diversion, use and recharge of water and to minimize inefficient use of water.

3.2.1.10 Pursuing education, research, and funding of water conservation, water use efficiency, improved water management, and agricultural water use.

3.2.1.11 Supporting or funding of improvement and operation of ditches, headgates, reservoirs or other facilities to make the best use of available water.

3.2.1.12 Implementing or supporting data collection and analysis programs designed to verify and improve RGDSS predictions, further refine the calculation of stream depletions caused by groundwater withdrawals, or otherwise help the Subdistrict achieve GMP objectives.

3.2.1.13 Working, in cooperation with USDA-NRCS and other entities, to develop annual water supply forecasts based on SNOTEL and snow course data to include development of new and improved technologies.

3.2.1.14 Determining historical stream flow volumes based on methods to correlate precipitation to rim inflows.

3.2.2 The Subdistrict intends to pursue any or a combination of these acts and improvements concurrently, or as they become economically viable and physically possible, to achieve the goals of the GMP. The GMP will operate for an indefinite period to ensure the remedy of Injurious Stream Depletions resulting from groundwater withdrawals by Subdistrict Wells and to achieve and maintain a Sustainable Water Supply in the Aquifer, which meets the standards defined in the Groundwater Rules.

3.2.3 At such time as the operation of Subdistrict Wells is not causing Injurious Stream Depletions, the Aquifer is maintained at a level which meets the Sustainable Water Supply standards set out in the Groundwater Rules, all other purposes for which the Subdistrict has been organized are permanently accomplished, and all obligations of the Subdistrict have been satisfied, the Subdistrict can be dissolved.

### 3.3 Other Management Tools.

The Board of Directors will adopt Rules and Regulations, policies, or guidelines to facilitate the operation of the Subdistrict. In order to manage water use within the Subdistrict, the Subdistrict may use some or all of the following acts and policies:

3.3.1 Implementation and enforcement of annual groundwater withdrawal or consumptive use allocations or limits. By petitioning for allotments, the Owners of

Subdistrict Wells have explicitly authorized and agreed to abide by groundwater allocations or limits imposed by the Board of Directors.

3.3.2 Enactment of economic incentives to reduce excessive or inefficient groundwater use as may be reasonably necessary to further the goals and objectives of the GMP, ARP or to comply with Colorado law.

3.3.3 Economic or other penalties for violating Subdistrict Rules and Regulations.

3.3.4 Monthly, quarterly or bi-annual groundwater meter reporting to the Subdistrict.

3.3.5 Contracts with government or other public entities or with persons or entities other than public entities to implement portions of the GMP.

#### 3.4 Protection of Senior Surface Water Rights.

3.4.1 To ensure the protection of senior surface water rights and to avoid unreasonable interference with Colorado's obligations under the Rio Grande Compact, the Subdistrict will utilize a portion of its revenues to remedy any Injurious Stream Depletions determined to occur to surface streams resulting from the operation of Subdistrict Wells.

3.4.2 As required by the Groundwater Rules, the Subdistrict will utilize the then current Response Functions developed by the State for the Trinchera Response Area to calculate the amount, timing and location of stream depletions caused by the withdrawal of groundwater by Subdistrict Wells unless and until the Response Functions are supplanted in the future by a superior technology.

3.4.3 Pursuant to ARPs to be submitted to the State Engineer for approval, the Subdistrict will replace or otherwise remedy Injurious Stream Depletions projected for the then-current year. Doing so may require the Subdistrict to purchase or lease senior water rights, change water rights to permit their use under the GMP, pursue appropriative rights of exchange, obtain the rights to use certain infrastructure, provide aquifer recharge, operate augmentation wells, implement groundwater monitoring programs and protocols, enter agreements under which affected senior water users accept the effect of the well depletions in return for consideration, enter into agreements with other governmental bodies, including but not limited to the Rio Grande Water Conservation District, for either services or replacement water in support of a groundwater management plan or management of the GMP, or to take other measures. The specific arrangements for each year will be described in the pertinent ARP.

3.4.4 According to current results produced by the RGDSS Model, the reaches of surface streams in Colorado that are affected by depletions from the groundwater withdrawals by the Trinchera Subdistrict Wells are: (1) Trinchera Creek below Smith Reservoir (2) the Rio Grande between the Excelsior Ditch and the Chicago Ditch; (3) the Rio Grande between the Chicago Ditch and the New Mexico state line; and (4) the Conejos River below the Seledonia / Garcia Ditches. Currently, no other stream reaches are depleted by groundwater withdrawals by Subdistrict Wells in an amount that requires replacement. If future modifications of the RGDSS Model produce different results, including but not limited to identifying other stream reaches to which replacements must be made, the Subdistrict will replace or otherwise remedy depletions to such reaches as required. Such future operations may be described in ARPs, without a need to amend this GMP. The Subdistrict understands that its replacement obligations under the GMP will vary from year to year, depending on attendant conditions.

3.4.4.1 The Subdistrict has negotiated and is ready to enter into a No Call Agreement (provided to DWR with this GMP) with the owners of affected surface water rights on Trinchera Creek below Smith Reservoir, pursuant to which, among other things, such owners agree to accept Injurious Stream Depletions caused by Subdistrict Wells. This arrangement should satisfy much of the Subdistrict's obligation to replace Injurious Stream Depletions to Trinchera Creek. To the extent necessary to remedy any other Injurious Stream Depletions to Trinchera Creek attributable to the Subdistrict Wells and not covered by the No Call Agreement, the Subdistrict will enter into further agreements with other water users, release replacement water to Trinchera Creek or conduct recharge operations that provide water to Trinchera Creek.

3.4.4.2 If (1) there is sufficient water in the Trinchera Basin and all senior priorities at or above Smith Reservoir and the Rattlesnake diversion are satisfied, (2) Smith Reservoir is spilling and (3) all parties to the No Call Agreement concur, the Stribling and Notley Ball water rights shall be able to divert the water legally and physically available in priority at their respective headgates without being in violation of the Natural Prairie No Call Agreement.

3.4.5 The Subdistrict will replace Injurious Stream Depletions to the Rio Grande or the Conejos River by physically delivering water to that river, whether through the release of surface flows, pumping groundwater, or groundwater recharge operations, or will remedy such Injurious Stream Depletions by means other than providing water, including but not limited to agreements with affected water users, to the full extent required and permitted by law. The sources of replacement water may include stream accretions attributable to lawfully useable groundwater recharge, water rights that have been changed or that are subject to administrative authorization so as



to allow replacement uses under the GMP, releases of stored water decreed or authorized for use under the GMP, or wells that will pump a lawfully useable replacement supply. Among other possibilities, with the approval of the DWR, the Subdistrict may provide replacement water to the Conejos River or the Rio Grande by allowing such waters to flow to the Compact gauge above the New Mexico state line, thereby assisting the Rio Grande or the Conejos River in meeting its delivery obligation under the Rio Grande Compact. Alternatively, to the extent required and permitted by law, the Subdistrict may remedy such depletions by means other than providing water, including but not limited to agreements under which water users whose rights are affected by well pumping accept such injurious depletions in return for an agreed upon consideration.

3.4.6 The Subdistrict may enter into one or more agreements with other “subdistricts” as that term is defined in the Groundwater Rules, , under which one or more of the subdistricts would agree to replace, or otherwise to compensate, Injurious Stream Depletions occurring to a stream reach within one or more of the agreeing subdistricts..

### 3.5 Sustainable Water Supply.

#### 3.5.1 Standards concerning a Sustainable Water Supply

3.5.1.1 Rule 8.3 of the Groundwater Rules provides that: “Except as provided in Rule 8.6, [a rule that relates to alternate plans for a Sustainable Water Supply] plans specified in Rule 6.1 that include Wells located in the Trinchera Response Area must achieve and maintain a Sustainable Water Supply in accordance with this Rule 8.3. Each plan must contain terms that provide for achieving and maintaining a Sustainable Water Supply within 20 years of its effective date.”

3.5.1.2 Rule 8.6 of the Groundwater Rules provides that: “Any Well User or Subdistrict may propose an Alternate Plan that includes a method or standard for determining, achieving, and maintaining a Sustainable Water Supply. The proponent of any such Alternate Plan must demonstrate that an Alternate Plan reliably determines the Sustainable Water Supply and is sufficient to achieve and maintain a Sustainable Water Supply. Regardless of whether an Alternate Plan relies on replacement of groundwater withdrawals by recharge or injection such that the groundwater withdrawals do not have an effect on the Sustainable Water Supply, the Alternate Plan must contain terms that account for the effect of groundwater withdrawals made before the effective date of the Plan on the achievement and maintenance of a Sustainable Water Supply. If an Alternate Plan is used to determine, achieve, and maintain

a Sustainable Water Supply, Wells subject to that Alternate Plan will be curtailed at times the provisions of the Alternate Plan are not met.”

3.5.1.3 Pursuant to Rule 4.29, “Sustainable Water Supply’ means a supply of groundwater that is being managed in accordance with sections 37-92-501 (4)(a)(I) through (III), C.R.S.”

3.5.1.4 1.4 Section 37-92-501(4)(a), C.R.S. deals with sustainability in an unconfined aquifer such as the Aquifer underlying the Trinchera Subdistrict, and it provides, in part:

- (I) Use of the confined and unconfined aquifers shall be regulated so as to maintain a sustainable water supply in each aquifer system, with due regard for the daily, seasonal, and long-term demand for underground water;
- (II) Unconfined aquifers serve as valuable underground water storage reservoirs with water levels that fluctuate in response to climatic conditions, water supply, and water demands, and such fluctuations shall be allowed to continue; . . . .

3.5.1.5 The Subdistrict will comply with all Sustainable Water Supply requirements of the Groundwater Rules and of Section 37-92-501(4), C.R.S. The Subdistrict will act to maintain a Sustainable Trinchera Water Supply by limiting and allocating Groundwater Consumptive Use by Subdistrict Wells, as described in this GMP and in Rules and Regulations adopted by the Subdistrict.

### 3.6 Definition of Sustainable Trinchera Water Supply.

3.6.1 A Sustainable Trinchera Water Supply will be considered to exist when the composite water head in the Aquifer on a five-year running average is no more than 17.9 feet below the 1978 composite water head

3.6.2 This level of composite water head is chosen as the lowest at which a Sustainable Water Supply from the Aquifer can be maintained, even with reductions in Groundwater Consumptive Use by Subdistrict Wells, because at levels lower than 17.9 feet below the 1978 composite water head, some of the shallower Subdistrict Wells would no longer have the minimum required pump submergence of 10 feet. Without sufficient pump submergence, a well will cavitate or no longer be able to pump.

3.6.3 The composite water head for the Aquifer is currently at a level of less than 17.9 feet below the composite water head for 1978, and the Aquifer is considered to be in a sustainable condition.

3.6.4 If the composite head in the Aquifer, on a five-year running average, drops to a level of 17.9 feet or more below the composite water head for 1978, the Aquifer will be regarded as not being in a sustainable condition, and no withdrawals will be allowed by Subdistrict Wells until the composite head returns to a level of less than 17.9 feet below the composite water head for 1978.

### 3.7 Sustainability Metric.

3.7.1 The metric for determining whether a Sustainable Trincher Water Supply exists within the Aquifer is a five year running average of the change in composite water head within the Aquifer, compiled as described in this section.

3.7.2 In order to determine the composite water head, the Subdistrict will monitor existing monitoring wells shown in **Appendix E** for the depth to ground water and will add additional monitoring wells to the program as appropriate, using an approach approved by DWR. The monitoring wells currently are monitored at regular intervals by the USGS. The Subdistrict will provide information concerning the composite water head in the Aquifer as part of its ARPs and in the five-year reports described below.

3.7.3 To determine the composite water head, each monitoring well is assigned an area within the Subdistrict that it represents, using the Thiessen polygon method. From this weighting, each monitoring well is assigned a pro-rated percentage of the overall Subdistrict area that it represents. The minimum annual depth to water is calculated from periodic monitoring. It represents the shallowest measurement of the depth to water for the year. The minimum annual depth to water tends to occur in the spring just prior to the irrigation season, as the Aquifer has had the longest time since pumping to recover and equilibrate. Going forward, the Subdistrict will use the data from a measurement taken in March, or if there is not a measurement taken in March, from the measurement closest to March 15.

3.7.4 The change in the minimum annual depth to water from the 1978 baseline is calculated for each well. This change in depth to water is then multiplied by the percent weighting for each monitoring well and summed for all wells in the monitoring network to determine the annual change in the composite water level for the Trincher Response Area. A 5-year rolling average of the change in composite water head is then calculated by averaging the annual change in composite water level for the current year with the prior four years.

3.8 Goal. The goal of the Subdistrict is to maintain a Sustainable Trinchera Water Supply in the Aquifer, in which Net Groundwater Consumptive Use by Subdistrict Wells is managed in accordance with the groundwater levels within that Aquifer. The Subdistrict will accomplish this goal as described herein and in its Rules and Regulations, which may be amended from time to time, and by: (1) annually setting an Overall Groundwater Consumptive Use Allocation for all Subdistrict Wells; (2) annually setting Farm Unit Allocations and allocations to Class B, Class C and Contract Wells; and (3) other measures employed by the Subdistrict as described in its Rules and Regulations and Sections 3.3, 3.4 and 3.7 of this GMP.

3.9 Accomplishment of goals.

3.9.1 The Subdistrict has evaluated the Aquifer by studying the composite water head over time. The Subdistrict recognizes a relationship between the composite water head within the Aquifer and the Groundwater Consumptive Use that can be sustainably consumed. The Subdistrict considers the Aquifer to be describable in terms of tiers, in which a certain amount of Groundwater Consumptive Use may occur consistent with achieving and maintaining a Sustainable Water Supply. The parameters of the tiers and the amount of permissible Groundwater Consumptive Use by Subdistrict Wells within each such tier are described more fully in the Subdistrict Rules and Regulations.

3.9.2 Ultimately, the Subdistrict will limit the amount of Groundwater Consumptive Use by Subdistrict Wells that may be withdrawn and consumed in agricultural irrigation in accordance with the tier within which the composite water head exists. Allocations to municipal and commercial Subdistrict Wells may be for specified annual amounts, but the Subdistrict reserves the ability to change, and specifically to reduce, such amounts in light of Aquifer conditions.

3.10 Compliance with sustainability metric.

3.10.1 In order to provide a process for reviewing the Subdistrict's Farm Unit Allocations and for assessing whether the Subdistrict is achieving and maintaining a Sustainable Water Supply in the Aquifer, the Subdistrict shall provide a report to the State Engineer every five years, which describes:

- (1) The composite head in the Aquifer for each year within the five-year period.
- (2) The composite head in the Aquifer on a five year running average.
- (3) The monitoring wells used to determine the composite head in the Aquifer and the data collected from such monitoring wells.

- (4) The amount of the Overall Groundwater Consumptive Use Allocation that was committed to Farm Unit Allocations in each of the five years.
- (5) The Net Groundwater Consumptive Use for agricultural irrigation by Subdistrict Wells for each of the five years.
- (6) The Net Groundwater Consumptive Use for purposes other than agricultural irrigation by Subdistrict Wells for each of the five years.

3.10.2 As part of the ARP process, the Subdistrict will provide DWR an annual summary and graphs of the information described in paragraph 3.6.6.1 and will provide the monitoring well data collected for the previous year.

### 3.11 Proportional division of responsibility for Sustainable Water Supply.

3.11.1 Rule 8.7 of the Groundwater Rules provides that: “All Plans specified in Rule 6.1 that are required by this Rule 8 to achieve and maintain a Sustainable Water Supply must provide for the proportional division of the responsibility for achieving and maintaining a Sustainable Water Supply as between all Well Users in each of the Response Areas in which the Wells included in the GMP are located. The proportional division of the responsibility for achieving and maintaining a Sustainable Water Supply will be based upon each Well’s past, present and future groundwater withdrawals, unless the GMP’s participants agree among themselves on another method of allocation of responsibility of the GMP’s participants.”

3.11.2 The Aquifer is considered to currently be in a sustainable state and the Groundwater Consumptive Use by Subdistrict Wells will be managed and curtailed if and as necessary by the Subdistrict to maintain the Aquifer in that state. The Well Owners for the Subdistrict Wells used for irrigation to be included in the GMP have agreed, pursuant to their Class D petitions under C.R.S. § 37-45-125, to the proportionate allocations of the Overall Groundwater Consumptive Use Allocation for irrigation under the GMP as Farm Unit Allocations, after non-irrigation allocations of the Overall Groundwater Consumptive Use Allocation pursuant to C.R.S. § 37-45-123, C.R.S. § 37-45-124, and via contract under C.R.S. § 37-45-131, have been satisfied, and that their withdrawals pursuant to those allocations will be proportionately reduced by the Subdistrict to limit present and future Groundwater Consumptive use as necessary to maintain and manage the Aquifer in a sustainable state.

3.11.3 Should there be wells that are within the Trinchera Response Area, but are not covered by this GMP (“Other Wells”), and should the Other Wells be held to the same standards for achieving and maintaining a Sustainable Water Supply as apply to the Subdistrict, the proportional division of the responsibility for achieving

and maintaining a Sustainable Water Supply will be based upon each well's past, present and future groundwater withdrawals. If the Other Wells are not held to the same standards for achieving and maintaining a Sustainable Water Supply as apply to the Subdistrict Wells, the Subdistrict may propose a different division of the responsibility for achieving and maintaining a Sustainable Water Supply

3.11.4 Should Other Wells within the Trinchera Response Area seek operation pursuant to a plan for augmentation or inclusion in a plan by a different subdistrict, the Subdistrict will oppose or participate in those proceedings to confirm that such wells are required to operate in a manner that does not compromise the maintenance of a Sustainable Trinchera Water Supply and that those wells are required to share a proportional responsibility for either maintaining or recovering a Sustainable Water Supply based on their past, present and future groundwater withdrawals.

3.12 Accounting for the effect of previous groundwater withdrawals. Because the sustainability portions of this GMP are based upon past and future composite water heads, which are influenced by past well operations, the GMP does “contain terms that account for the effect of groundwater withdrawals made before the effective date of the GMP on the achievement and maintenance of a Sustainable Water Supply”, as required by the Groundwater Rules.

3.13 Pumping Allocations.

3.13.1 The Subdistrict will annually set an Overall Groundwater Consumptive Use Allocation that may be diverted and consumed through the use of Subdistrict Wells. This allocation will be limited by the amount and location of Injurious Stream Depletions that the Subdistrict is required to replace; the identity, amount, location and other characteristics of replacement sources that the Subdistrict has; the agreements that the Subdistrict has that allow the Subdistrict to compensate for Injurious Stream Depletions other than by providing replacement water; and the requirements to achieve and maintain a Sustainable Trinchera Water Supply.

3.13.2 The Subdistrict will allocate water to Class B, Class C and contract wells, based upon the allowable annual consumptive use for such wells, before allocating the remainder of the Overall Groundwater Consumptive Use Allocation to Class D Subdistrict Wells.

3.13.3 The Subdistrict will annually set Farm Unit Allocations. It will be a condition of approval for Class D petitions, Class B and C petitions or contractual agreements with municipalities or other public corporations, and petitions or contracts with the users of commercial or industrial wells, that Owners of Subdistrict Wells will accept such pumping or groundwater consumptive use allocations as the Subdistrict

determines are necessary and will allow the Subdistrict to charge an additional over-pumping fee for pumping that causes net groundwater consumptive use in excess of the allocation.

3.13.4 The Groundwater Consumptive Use Allocation will be allocated among Subdistrict Wells used for irrigation in accordance with Farm Unit Allocations set by the Subdistrict, but only in years when conditions permit Farm Unit Allocations to be made.

3.13.5 Further specifics of this program will be described in the Subdistrict's Rules and Regulations and in its ARPs.

3.13.6 Owners and Operators will be allowed to trade Farm Unit Allocations among themselves in accordance with applicable decrees and permits and Rules and Regulations to be adopted by the Subdistrict.

#### 3.14 Contracting Authority.

3.14.1 The Subdistrict may contract with willing surface water rights holders to purchase or lease water and temporarily or permanently to change the water rights so as to be legally able to be used for recharge, storage, augmentation or other means to replace injurious stream depletions from the operation of Subdistrict Wells, and may (but shall not be required to) purchase or lease lands associated with such water. The Subdistrict may also 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 GMP goals and overall objectives.

3.14.2 Any funds collected from contracts with non-Subdistrict entities will be applied to advance the GMP goals and overall objective or as an offset of the administrative costs of managing the Subdistrict.

### 4.0 SUBDISTRICT COSTS, FEES AND CHARGES

#### 4.1 General Basis of Fees and Charges.

4.1.1 The Subdistrict is entitled to raise funds by assessment of fees to carry out the goals and overall objective set forth in this GMP. The Subdistrict intends to finance its costs by raising sufficient revenue, in a fair and equitable manner, through the imposition of such fees. As a subdistrict of a water conservancy district, the Subdistrict has the powers granted in C.R.S. §37-45-121 and subsequent sections to make assessments. The Subdistrict will rely upon these and its other statutory authority to finance its activities under GMP and ARPs.

4.1.2 The Subdistrict expects to need to raise funds to finance legal, engineering, accounting, administrative services, payments under forbearance, no call or similar agreements, payments for replacement water supplies and use of necessary facilities (either leased or owned), measures to meet sustainability requirements and any other programs, acts, improvements or expenditures needed to comply with the GMP and ARPs.

4.1.3 The Subdistrict will adopt an annual budget specifying the funds needed for the forthcoming year and the projected use of such funds.

4.1.4 **Appendix F** is the “proposed budget and accounting for the plan” required by Rule 9.1.1.5.

4.1.5 The Subdistrict will be required to have a portfolio in place which can sufficiently remedy Post-Plan Injurious Stream Depletions as a condition of the Division of Water Resources’ approval of any ARP. This portfolio may include money, water, long-term forbearance agreements and/or a suitable guarantee that contractual payments to the Subdistrict and Subdistrict assessments under C.R.S. § 37-45-123 through 125 will continue in an amount necessary and for so long as necessary to replace Post-Plan Injurious Depletions. Should Subdistrict 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 Post-Plan Injurious Stream Depletions caused by past groundwater withdrawals from Subdistrict Wells have been remedied.

## 4.2 Description of Fees.

4.2.1 In order to raise funds, the Subdistrict expects to use Class A assessments. These may be used to pay the “expenses of organization, for surveys and plans, and for paying the costs of construction of, operating and maintaining the works” of the Subdistrict.

4.2.2 The Subdistrict will primarily rely on Class B, C and D assessments to generate revenues to meet its obligations under the GMP and ARPs, including but not limited to repayment of loans and interest payments.

4.2.3 Class D assessments are made pursuant to C.R.S. § 37-45-125, based upon a contractual arrangement with the Owners whose Subdistrict Lands are to benefit from the GMP. The contractual arrangements are expressed in Class D petitions submitted to and approved by the Subdistrict. An Owner would be allocated a portion of the Overall Groundwater Consumptive Use Allocation as all or part of a Farm Unit Allocation, in return for the payment of Class D assessments and



compliance with the terms and conditions of the Subdistrict's acceptance of the Owner's petition.

4.2.4 The Owner will pay an Administrative Fee, as determined by the Subdistrict Board to be sufficient to pay those Plan Costs determined by the Subdistrict Board that are necessary for administration of the Plan and ARPs. The Administrative Fee will be a flat fee that is charged per well for each of the Owner's Subdistrict Wells (active and inactive), to be set by the Subdistrict Board. This fee may vary from year to year.

4.2.5 The Owner also will pay fees based upon the Subdistrict Board's determination of the budgeted amounts that are necessary to pay for Plan Costs associated with: (1) replacing injurious stream depletions attributable to the Owner's Subdistrict Wells for the current ARP year and for anticipated future ARP years, as determined by the Subdistrict Board; and (2) actions necessary to achieve and maintain a Sustainable Water Supply, that are not covered by the Administrative Fee. The fees for each Farm Unit, which will be set annually by the Subdistrict Board and may vary from year to year, will be based on the volume of groundwater consumptive use associated with groundwater withdrawals by the Subdistrict Wells assigned to that Farm Unit. Allocation of the foregoing costs and the calculation of the fees to be assessed against the Owner's Subdistrict Lands will be based, in a manner to be determined by the Subdistrict Board of Directors, upon the following components:

(1) Past Pumping Fee. This is a fee to provide replacement water or other means to prevent injury from Post-Plan Injurious Stream Depletions. The amount will be determined based upon the amount of replacement water or the extent of forbearance agreements necessary to prevent injury under the upcoming ARP from delayed stream depletions attributable to prior pumping of the Owner's Subdistrict Wells, as determined by available data;

(2) Current Pumping Fee. The Current Pumping Fee (aka Current Consumptive Use Fee) will be set by the Subdistrict Board to cover the operating budget of the Subdistrict for the Plan and ARPs, including the costs of replacement supplies to cover stream depletions and other costs associated with pumping and depletions during the current ARP year, including achieving and maintaining a Sustainable Water Supply in the Unconfined Aquifer; and

(3) Over-Pumping Fee (aka Over-Consumptive Use Fee). Withdrawals by Owner's Subdistrict Wells in excess of withdrawals permitted by the Farm Unit Allocation for the Farm Unit to which the Owner's Subdistrict Wells are assigned.

4.2.6 Fees under Class B and Class C and other contracts will be described in the documents creating the contractual arrangement and in the Subdistrict's Rules and Regulations.

4.2.7 By voluntarily petitioning for a Class B, C or D assessment or agreeing to a contract pursuant to C.R. S. § 37-45-131, the Owners authorize, and agree to abide by, any Groundwater Consumptive Use Allocation of the Subdistrict to their wells. The Owners will further agree that the Subdistrict may impose penalties, including exclusion from the ARP, reasonably necessary to further the goals or objectives of the GMP or to comply with Colorado law. These covenants, as specifically set forth in the individual petition or contract, will bind the Owner and their successors to the Subdistrict Land so encumbered.

4.2.8 The Owners' Subdistrict Lands will be subject to a lien for failure to pay assessments, which lien will be enforceable by the Trinchera Subdistrict or upon assignment by the Subdistrict, by the Trinchera Water Conservancy District.

4.2.9 The Trinchera Subdistrict plans to enter into Class B and C allocation agreements with municipalities and other public corporations under C.R.S. §§ 37-45-123 and 124, that use wells for other beneficial uses, including but not limited to municipal and domestic type uses. Similarly, there may be a limited number of Class D assessment contracts with private parties who use wells for commercial, domestic, stock, industrial, augmentation, mining, fire protection or dust suppression uses. These contracts will have fee structures generally similar to the Class D irrigation assessment contracts but may vary in some particulars. The parties operating under Class B, Class C and other contractual arrangements will have similar obligations and commitments to those of parties operating under Class D arrangements.

4.2.10 These arrangements may be further described in the Subdistrict's Rules and Regulations.

#### 4.3 Wells Covered by Plans for Augmentation.

4.3.1 As stated in paragraph 2.2.3 above, wells within the Subdistrict that are operated under plans for augmentation that meet the requirements of the Groundwater Rules are not included within this GMP. If, however, there are wells within the Subdistrict that are subject to a plan for augmentation that does not fully meet the requirements of the Groundwater Rules, and if such wells are added to this action of the Subdistrict Board, then the following provisions shall apply to such wells.,

4.3.1.1 Such wells will be assessed an Administrative Fee.

4.3.1.2 Such wells will be assessed a Past Pumping Fee and Current Pumping Fee and potentially an Over-Pumping Fee on the amount of groundwater withdrawals that are not included within a plan for augmentation that meets the requirements of the Groundwater Rules., The Subdistrict will consult with the Division of Water Resources' staff to determine the amount of groundwater that was withdrawn by such wells and not covered under plans for augmentation.

#### 4.4 Contract Wells.

4.4.1 To the extent permitted by law, the Subdistrict may contract with well owners to include wells in the GMP if the impacts from the wells can be determined using the methodology the Subdistrict will use to calculate Injurious Stream Depletions from Subdistrict Wells, or otherwise have an approved alternate method of calculating Injurious Stream Depletions. Any contract to include a well in the Subdistrict's GMP and ARPs will include provisions to comply with all Sustainable Water Supply requirements of the Groundwater Rules, this GMP and any ARP that includes Contract Wells.

4.4.2 Such contracts may be subject to a contract fee. Contract Wells may be assessed fees that are in addition to or different from those assessed to Subdistrict Wells.

4.4.3 Additional terms and conditions may be included in contracts if the Board of Directors deems it necessary or desirable to meet the goals of the Subdistrict. Such terms and conditions may be further described in Rules and Regulations adopted by the Subdistrict.

#### 4.5 Appeal Procedures.

The Subdistrict Board may develop Rules and Regulations to govern appeals from its determinations, including but not limited to fees assessed and the time limits on the ability to file an appeal. In any event, the provisions of Section 37-45-127 C.R.S. (regarding appeals of assessments) and of the Colorado Administrative Procedures Act will apply.

#### 4.6 Consequences of Non-compliance.

Failure to pay fees and assessments, including interest and penalties, and the costs of collection, will create a lien against the Owner's Subdistrict Land and Subdistrict Wells, which may be sold for delinquency under C.R.S. §§ 37-45-128 and 129. Further, the Subdistrict may curtail the Owner's pumping or terminate the inclusion of the Owner's Subdistrict Wells in the GMP or ARPs, in the event of the well owner's non-payment or failure to comply with the terms and conditions of the GMP or an ARP.

#### 4.7 Water Activity Enterprise.

To the extent the Subdistrict needs to acquire water rights or to acquire or construct facilities, it may be necessary for the Subdistrict to take on debt, either in the form of bonds or loans, subject to compliance with the Water Conservancy Act, C.R.S. § 37-45-101, et seq., Colo. Const., Art. X, § 20 (“TABOR”), and C.R.S. § 29-1-301, *et seq.* The Subdistrict may do so itself, but it also may utilize a water activity enterprise formed and operated in accordance with C.R.S. § 37-45.1-101, et seq.

### 5.0 ANTICIPATED BENEFITS

#### 5.1 Subdistrict Benefits.

Anticipated benefits of the implementation of the GMP include:

5.1.1 Remediating injury to senior surface water rights;

5.1.2 Maintaining a Sustainable Trinchera Water Supply for Subdistrict Wells;

5.1.3 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; and.

5.1.4 Preventing unreasonable interference with Colorado’s obligations under the Rio Grande Compact.

#### 5.2 Benefits to the San Luis Valley.

Compliance with the Groundwater Rules and with this GMP and the resulting stabilization of water levels within the Subdistrict will have broad benefits to the economy of the San Luis Valley as a whole including, but not limited to, contributing to maintenance of a Sustainable Water Supply which may enrich the vibrant agricultural community.

### 6.0 STATE OF COLORADO REPORTING REQUIREMENTS

#### 6.1 Annual Replacement Plan.

6.1.1 On an annual basis, as required by the Groundwater Rules, the Subdistrict must prepare and submit an ARP to the State and Division Engineers for approval. The report will detail Subdistrict operations for the ARP Year.

6.1.2 The ARP will include: a database of Subdistrict Wells that will be covered by the ARP; a projection of the groundwater withdrawals from Subdistrict

Wells during the current ARP Year; a calculation of the projected stream depletions resulting from groundwater withdrawals from Subdistrict Wells; detailed information regarding the methods that will be utilized to replace or remedy injurious stream depletions during the ARP Year, including any contractual agreements used for replacement or remedy of injurious stream depletions that will be in place; any information regarding the fallowing of Subdistrict Lands; information documenting progress toward achieving and maintaining a Sustainable Water Supply; and documentation that sufficient funds are or will be available to carry out the operation of the ARP.

6.1.3 In the ARP wells can be added to or deleted from the list of wells covered by the GMP without needing to amend the GMP.

6.1.4 The State Engineer must approve the ARP for Subdistrict Wells to be allowed to continue making groundwater withdrawals in any Water Administration Year. The State Engineer will only approve the ARP if the Subdistrict has provided sufficient evidence and engineering analysis to predict when and where stream depletions will occur and how the Injurious Stream Depletions will be replaced or remedied.

## 6.2 Annual Report.

### 6.2.1 Preliminary Annual Report.

6.2.1.1 On an annual basis on or before March 1 of each year, as required by the Groundwater Rules, the Subdistrict must submit a preliminary report to the State and Division Engineers analyzing the operation of the then current ARP. The Subdistrict will prepare this analysis utilizing available data for information predicted in the ARP.

### 6.2.2 Final Annual Report.

6.2.2.1 On an annual basis before July 1 of each year, as required under the Groundwater Rules, the Subdistrict must submit a final report to the State and Division Engineers analyzing the operation of the previous ARP. This final report will finalize the analysis that was completed in the preliminary annual report.

6.2.2.2 The analysis included in the annual report will enable the State and Division Engineers, as well as other interested parties, to review and evaluate the effectiveness of the Subdistrict's ARP on an annual basis. It also enables the Subdistrict to assess the effectiveness of its operations on an annual basis.

## 7.0 BUDGET AND ACCOUNTING PLAN

7.1 The Board of Directors will prepare a detailed annual budget for the ensuing year. The Subdistrict will post notice of the annual budget prior to the Subdistrict Board's meeting to review the annual budget to allow for public comment from Owners and the public. Once approved by the Subdistrict Board, the Subdistrict's annual budget will be included in the annual budget which is approved and submitted to the State of Colorado.

7.2 The annual Subdistrict budget will include detailed descriptions of the activities to be undertaken for the purpose of operating and administering the ARP and this GMP and details of the amount and type of revenues that are required to fund these budgeted expenditures.

7.3 The annual Subdistrict budget will contain a detailed description of the anticipated expenditures for operation of the ARP and this GMP, including but not limited to: expenses for the lease, loan or purchase of water or water rights to be used to replace or remedy injurious stream depletions; expenditures for contracts to replace or remedy injurious stream depletions; expenditures to achieve and maintain a Sustainable Trinchera Water Supply; expenditures to obtain approvals of any ARP, including judicial review; expenditures for changes of water rights or other Water Court actions; legal and engineering expenses; expenditures for any Subdistrict programs to reduce the overall withdrawal of groundwater from Subdistrict Wells; any amounts necessary to establish a reserve fund; and itemized administrative expenses for the ensuing year.

7.4 The annual Subdistrict budget will contain a detailed description of the anticipated revenues necessary to fund the annual budget including details regarding the assessments of fees.

7.5 The Subdistrict must limit the expenditures and revenues to the amounts specified in the annual budget unless an amended budget is adopted, after proper notice, in accordance with the provisions of Colorado Law.

## 8.0 ANNUAL OPERATIONAL TIMELINE

### 8.1 Annual Subdistrict Activities.

#### 8.1.1 Farm Unit Updates.

Farm Units are used by the Subdistrict to identify which individual or entity owns or manages Subdistrict Lands and Subdistrict Wells. Information recorded about the Farm Unit is utilized during the Subdistrict's fee calculation process. Requests for updates to Farm Units will be mailed to each Owner or Operator of a Farm Unit on record with the Subdistrict on an annual basis.

### 8.1.2 Submittal of Groundwater Withdrawals from Wells Not Required To Be Metered.

All Non-Exempt Wells that are subject to inclusion within the GMP and ARPs are required to have meters pursuant to DWR's Measurement Rules. Nonetheless, should there be any Owner or Operator whose Subdistrict Well or Wells are not required to be metered under the State's Measurement Rules, that Owner or Operator must have a measurement method approved by the Subdistrict, pursuant to Rules describing the process for securing an acceptable alternative measurement method, and by the DWR. Any Subdistrict Well groundwater withdrawals for the prior Water Administration Year that are being measured by a Subdistrict-approved method must be submitted to the Subdistrict and the DWR each year.

### 8.1.3 Annual Subdistrict Fee Calculation Process.

During the annual fee calculation process, the Subdistrict will download the records kept by DWR Division No. 3 to calculate groundwater withdrawals for each Subdistrict Well. The Subdistrict will use DWR's records, along with the withdrawals reported to the Subdistrict in paragraph 8.1.2 above, to calculate the groundwater withdrawals (and consumptive use for irrigation wells) for each Subdistrict Well. The Subdistrict will also review the status for each Subdistrict Well during the prior ARP Year for purposes of calculating the fees described above.

### 8.1.4 Notice of Subdistrict Calculations.

The Subdistrict will mail out a notice to each Subdistrict Well owner when the fee calculation process is complete. Notices will identify the groundwater withdrawals, including the diversion records for each year used in the fee calculation, and the calculated consumptive use for irrigation wells. Owners will be allowed sufficient time to contact the Subdistrict to review this information and appeal if necessary.

### 8.1.5 Certification of the Annual Service and User Fees.

The Subdistrict will ask for current ownership records for all Subdistrict Lands from the County Assessor during the annual fee calculation process. All annual fees will be assessed to the then current Owner of the Subdistrict Land. All annual fees will be certified to each County Treasurer in every County which encompasses Subdistrict Land.

## 8.2 Detailed Operation Timeline.

The attached **Appendix G** contains a detailed operational timeline for the activities described in Paragraph 8.1 as required by 9.1.1.6 of the Rules.

## Appendix A to Trinchera Subdistrict GMP

DISTRICT COURT, WATER DIVISION 3, COLORADO Alamosa County Court House, 702 4th Street Alamosa, CO 81101 (719) 589-4996	DATE FILED: October 7, 2016 10:16 AM CASE NUMBER: 2015CW3024
<p style="text-align: center;"><b>IN THE MATTER OF THE RULES GOVERNING                  THE WITHDRAWAL OF GROUNDWATER IN                  WATER DIVISION 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.</b></p> <p style="text-align: center;">IN ALAMOSA, MINERAL, RIO GRANDE,                  SAGUACHE, HINSDALE, CONEJOS, COSTILLA,                  AND ARCHULETA COUNTIES, COLORADO</p>	▲ COURT USE ONLY ▲
	Case No. 2015CW3024 Division 1
<p><b>ORDER GRANTING TRINCHERA SUBDISTRICT’S MOTION FOR                  DETERMINATION OF QUESTION OF LAW REGARDING AUTHORITY TO                  IMPLEMENT A GROUNDWATER MANAGEMENT PLAN</b></p>	

On July 8, 2016, the Protestant, Groundwater Management Subdistrict of the Trinchera Water Conservancy District (“Trinchera Subdistrict”), pursuant to C.R.C.P. 56 (h), filed its Motion for Determination of Question of Law Regarding Authority of Water Conservancy District Subdistricts to Implement a Groundwater Management Plan (“Trinchera Subdistrict Motion”).

The Conejos Water Conservancy District (“Conejos District”) joined in the Trinchera Subdistrict Motion on July 27, 2016.

The Trinchera Subdistrict filed a Correction to Trinchera Subdistrict Motion on July 29, 2016.

The State Engineer and Division Engineer (“Engineers”) filed a response to the Trinchera Subdistrict Motion on July 29, 2016. The Engineers did not take a position on the merits of the motion. Their response, however, stated that : “the Engineers believe that any order confirming the ability to use groundwater management plans should be limited to the question at hand, use within Division 3 and pursuant to §37-92-501(4)(c).”

The Engineers have reviewed and approved this proposed Order, which was prepared to satisfy the position expressed in their response.



The Court, having considered the parties' submissions and the relevant law, rules as follows:

1. The issue presented is whether as a matter of law, the governing Colorado statutes authorize a subdistrict of a Water Conservancy District, such as the Trinchera Subdistrict, to develop, submit for approval, and, if approved, to implement a groundwater management plan.

2. Rule 56(h) provides the relevant standard of review for the Trinchera Subdistrict Motion: "if there is no genuine issue of material fact necessary for the determination of the question of law, the court may enter an order deciding the question."

3. The Court finds that there is no genuine issue of material fact necessary for the determination of the question of law.

4. The Trinchera Subdistrict is a subdistrict of the Trinchera Water Conservancy District.

5. Section 37-92-501(4) (c), C.R.S., reads as follows:

The state engineer shall not curtail underground water withdrawals from aquifers in division 3 that are included in a ground water management subdistrict created pursuant to section 37-45-120 or 37- 48-108 if the withdrawals are made pursuant to a groundwater management plan adopted by the subdistrict that meets the requirements of paragraphs (a) and (b) of this subsection (4).

6. The Proposed Rules Governing the Withdrawal of Groundwater in Water Division 3 (the Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division 3 for all Irrigation Water Rights (the "Proposed Rules") define a "Groundwater Management Plan" as a plan adopted by a Subdistrict that meets the requirements of Sections 37-92-501(4)(a) and (b), C.R.S. The Proposed Rules further define a "Subdistrict" as an entity created pursuant to Sections 37-48-123 or 37-45-120, C.R.S.

7. The Court concludes that a subdistrict of a Water Conservancy District formed pursuant to Section 37-45-120, C.R.S., such as the Trinchera Subdistrict, has the authority to develop and implement groundwater management plans under the relevant statutes and the Proposed Rules.

THEREFORE, it is ordered that, as a matter of law, the governing Colorado statutes, including Section 37-92-501(4)(c), C.R.S., authorize a subdistrict of a Water Conservancy

District formed pursuant to Section 37-45-120, C.R.S., in Water Division 3, such as the Trinchera Subdistrict, to develop, submit for approval, and, if approved, to implement a groundwater management plan in Water Division 3, and that the Proposed Rules shall be interpreted to allow this result.

So ORDERED this 7th day of October, 2016.

BY THE COURT:



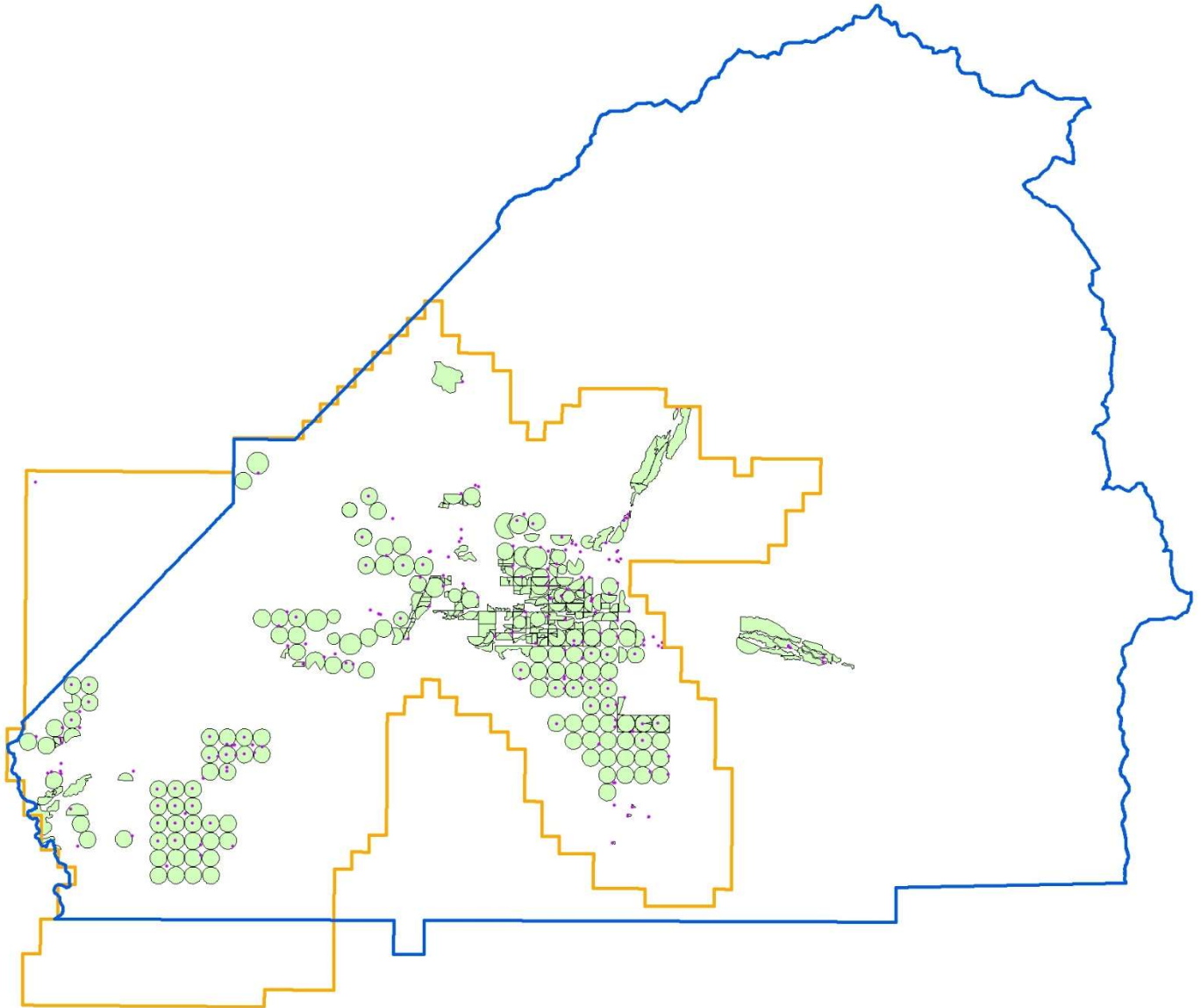
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Hon. Pattie P. Swift  
Water Judge, Water Division 3

APPENDIX B

TO THE PLAN OF WATER MANAGEMENT FOR THE GROUND WATER MANAGEMENT SUBDISTRICT OF THE  
TRINCHERA WATER CONSERVANCY DISTRICT

**MAP OF TRINCHERA GROUND WATER MANAGEMENT SUBDISTRICT**



*Blue Line Indicates Trincheria Ground Water Management Subdistrict Boundary*  
*Yellow Line Indicates Trincheria Response Area Boundary*

## APPENDIX C

### Current Tabulation of Wells Included in the Trinchera Subdistrict

Well WDID	Decree No.	Permit No.	Receipt No.
NO WDID	NOT DECREED	15958-F	9103296
2405396	NOT DECREED	15554-R-R	3672481B
3505000	W1135 WELL NO 01	19729-R	9103336
3505001	W1349 WELL NO 01	7276-R-R	0395771A
3505003	W1419 WELL NO 02	13848-R	9103230
3505005	W0216 WELL NO 01	6756-R	9103157
3505007	W0288 WELL NO 04	7384-R	9103168
3505008	W0288 WELL NO 07	15816-R	9103292
3505009	W3272 WELL NO 01	18641-F-R	9304201
3505010	W3272 WELL NO 07	18642-F	9103315
3505011	W3272 WELL NO 08	18640-F	9103313
3505012	W3272 WELL NO 09	18644-F	9103317
3505013	W3272 WELL NO 10	18643-F	9103316
3505014	W3272 WELL NO 12	18661-F	9103334
3505015	W3272 WELL NO 13	18645-F	9103318
3505016	W3272 WELL NO 20	18647-F	9103320
3505019	W3272 WELL NO 23	18650-F	9103323
3505020	W3272 WELL NO 24	18649-F	9304441
3505022	W3272 WELL NO 26	18652-F	9304443
3505024	W3272 WELL NO 28	18655-F-R	0356837
3505025	W3272 WELL NO 29	18654-F	9103327
3505026	W3272 WELL NO 30	18656-F	9103329
3505027	W3272 WELL NO 31	18657-F	9305134
3505028	W3272 WELL NO 32	18658-F	9103331
3505030	W3272 WELL NO 34	18660-F	9103333

<b>Well WDID</b>	<b>Decree No.</b>	<b>Permit No.</b>	<b>Receipt No.</b>
3505032	W3362 WELL NO 04	20011-F	9093272
3505033	97CW0023 WELL NO 05	51427-F	0440639
3505034	W0545 WELL NO 01	1079-R	9103087
3505035	W0545 WELL NO 02	1080-R	9103088
3505036	W3206 WELL NO 01A	24387-F	9103384
3505039	79CW0069 WELL NO 01RA	14260-R-R	9103260
3505040	79CW069 WELL NO 02RA	14261-R-R	0394692
3505042	W1978 WELL NO 01R	21718-F	0014327
3505048	W0112 WELL NO 01	14258-R	9103258
3505049	W0112 WELL NO 02	14259-R	9103259
3505055	W1219 WELL NO 02	4195-F	9103121
3505056	W1219 WELL NO 04	18625-F	9103311
3505057	W1219 WELL NO 05	18626-F	9103312
3505058	W0213 WELL NO 01	988-R	9103081
3505059	W0213 WELL NO 02	2493-F	9103102
3505060	W0213 WELL NO 03	989-R	9103082
3505061	W0274 WELL NO 01	10765-R	9103189
3505062	W3260 WELL NO 03A	16527-F	9103304
3505063	W3374 WELL NO 01	4194-F-R	9302044
3505064	W1847 WELL NO 01	2544-F	9103103
3505065	W3361 WELL NO 03	20010-F	9103340
3505066	W0765 WELL NO 01	15926-R	9103295
3505067	W1978 WELL NO 03	10201-F-R	0284258
3505068	W0502 WELL NO 01	14891-R	9103281
3505069	97CW0023 WELL NO 01A	51426-F	0440638
3505070	80CW036 WELL NO 01AA	20586-F	9103345
3505071	80CW036 WELL NO 01AAA	20585-F	9103344
3505083	W2010 WELL NO 03 IRR	10205-F	9103183

<b>Well WDID</b>	<b>Decree No.</b>	<b>Permit No.</b>	<b>Receipt No.</b>
3505084	W2010 WELL NO 06 IRR	6696-R-R	9303582
3505085	NOT DECREED	23263-F-R	0316585
3505087	W0454 WELL NO 06	4196-F	9103122
3505091	W1219 WELL NO 01	11187-R-F	9303171
3505092	W1219 WELL NO 03	4107-F	9103114
3505095	80CW0017 WELL NO 01	Unregistered	Unregistered
3505118	W0084 WELL NO 01	6695-R	9103154
3505149	W0252 WELL NO 01	6404-R	9103152
3505150	W0253 WELL NO 01	6405-R	9103153
3505151	W0254 WELL NO 01	1327-R	9103089
3505152	W0254 WELL NO 02	1328-R	9103090
3505154	W0288 WELL NO 01	6103-R	9103147
3505155	W0288 WELL NO 02	7382-R-R	0422175
3505156	W0288 WELL NO 05	7385-R	9103169
3505157	W0288 WELL NO 06	11972-R	9103201
3505161	W0332 WELL NO 02	14237-R	9103248
3505162	W0332 WELL NO 03	14238-R	9103249
3505165	W0332 WELL NO 06	14243-R	9103254
3505166	W0332 WELL NO 07	14244-R	9103255
3505173	W0454 WELL NO 02	8323-R	9103175
3505174	W0454 WELL NO 03	8322-R	9103174
3505175	W0454 WELL NO 04	8321-R	9103173
3505176	W0454 WELL NO 05	8320-R-R	9103172
3505178	W0534 WELL NO 01	13610-F	9103226
3505192	W0572 WELL NO 08	5883-F	9103142
3505196	W0573 WELL NO 01	6878-R	9103158
3505206	W0628 WELL NO 01	Unregistered	Unregistered
3505207	W0628 WELL NO 02	12281-R	9103207

<b>Well WDID</b>	<b>Decree No.</b>	<b>Permit No.</b>	<b>Receipt No.</b>
3505208	W0628 WELL NO 03	12282-R-F	9103208
3505209	W0628 WELL NO 04	12283-R	9103209
3505210	W0628 WELL NO 05A	20603-F	0065784
3505211	W0628 WELL NO 05B	13366-R-R	0288822
3505238	W0666 WELL NO 01	11873-R-R	9306616
3505239	W0671 WELL NO 01	11052-R	9103193
3505241	W0705 WELL NO 02	1017-R	9103086
3505246	W0706 WELL NO 02	1015-R	9103084
3505256	W0952 WELL NO 01	1918-R	9103098
3505258	W0952 WELL NO 03	12274-R	9103206
3505260	W0952 WELL NO 05	2121-F	9103101
3505263	W0985 WELL NO 01	4383-F	9103126
3505264	W0985 WELL NO 02	Unregistered	Unregistered
3505329	W1147 WELL NO 01	14240-R	9103251
3505330	W1177 WELL NO 01	3403-F	9103111
3505340	W1318 WELL NO 01	Unregistered	Unregistered
3505346	W1349 WELL NO 03	15623-R	9103290
3505347	W1349 WELL NO 04	13670-R-R	0395771B
3505348	W1349 WELL NO 05	Unregistered	Unregistered
3505359	W1419 WELL NO. 03	13849-R	9103231
3505360	W1419 WELL NO 04	5801-F	9103136
3505367	W1472 WELL NO 01	12051-R	9103202
3505368	W1472 WELL NO 02	12052-R	9103203
3505369	W1472 WELL NO 03	13152-R	9103217
3505370	W1472 WELL NO 04	3793-F	9103112
3505393	W1848 WELL NO 01	14810-R	9103275
3505412	W1969 WELL NO 12	22260-R-F	9099489
3505414	W1978 WELL NO 02	1714-R	9103096

<b>Well WDID</b>	<b>Decree No.</b>	<b>Permit No.</b>	<b>Receipt No.</b>
3505419	W1979 WELL NO 01	1713-R	9103095
3505423	W2010 WELL NO 01 IRR	14567-R-R	0007523
3505425	W2010 WELL NO 02 IRR	23259-F	9103372
3505433	W2010 WELL NO 08 IRR	4391-F	9103127
3505445	W2203 WELL NO 01	Unregistered	Unregistered
3505451	W2235 WELL NO 01	22848-F	0884401B
3505452	W2294 WELL NO 01	4151-F	9103116
3505454	W2294 WELL NO 04	13595-R	9103225
3505455	W2294 WELL NO 05	4155-F	9103119
3505463	W2314 WELL NO 01	5668-F	9103134
3505464	W2314 WELL NO 02	5997-R	9103144
3505465	W2314 WELL NO 03	5984-R-R	9300748
3505475	W2374 WELL NO 01	14220-R	9103240
3505493	W2579 WELL NO 01	14888-R	9103278
3505494	W2579 WELL NO 02	14889-R	9103279
3505504	W2585 WELL NO 10	Unregistered	Unregistered
3505505	W2586 WELL NO 01	14558-R-R	9103266
3505506	W2586 WELL NO 02	4108-F	9103115
3505566	W3260 WELL NO 08	16521-F-R	9303169
3505576	94CW0018 WELL NO 04A	24110-F	9103382
3505581	02CW0058 WELL NO 1R	1014-R-R	9301051
3505584	10CW0008 WELL NO 33-A	46212-F	0395253B
3505585	10CW0008 WELL NO 33-R	18659-F-R	0392207A
3505586	10CW0008 WELL NO 34-S	45646-F	0392207C
3505587	10CW0008 WELL NO 27-S	45647-F	0392207D
3505588	10CW0008 WELL NO 27-R	18653-F-R	9103326
3505593	10CW0008 WELL NO 25-R	18651-F-R	0392207B
3505594	NOT DECREED	43111-F	0361512



<b>Well WDID</b>	<b>Decree No.</b>	<b>Permit No.</b>	<b>Receipt No.</b>
3505604	10CW0008 WELL NO 3-S	46309-F	0395253A
3505606	10CW0008 WELL NO 21-S	46211-F	0395252B
3505607	W0952 WELL NO 07	24063-F-R	0098186C
3505615	W2582 WELL NO 02	16083-F	9103299
3505617	W2582 WELL NO 01	15315-R-R	9300877
3505618	NOT DECREED	4153-F	9103118
3505621	10CW0008 WELL NO 21-R	46210-F	0395252A
3505629	NOT DECREED	15553-R	9103287
3505630	UNKNOWN	UNKNOWN	0316585
3505631	10CW0008 WELL NO 3-R	14262-R-R	0227276B
3505635	06CW0024 WELL NO 6R	11517-F-R	9302787
3505636	NOT DECREED	60451	9103536
3505637	NOT DECREED	49905-F	0427942A
3505748	10CW0030 WELL NO 22-R	18646-F-R	9304202

# Appendix D to Trinchera Subdistrict GMP

## JOINT RESOLUTION AND ADOPTION OF WATER CONSERVATION PROGRAM

The Boards of Directors of the Trinchera Water Conservancy District (“Trinchera District”) and of the Groundwater Subdistrict of the Trinchera Water Conservancy District (“Trinchera Subdistrict”), by votes taken on February 26, 2020, hereby adopt the following Water Conservation Program.

### Recitals

A. C.R.S. § 37-92-103(2) provides that:

Any period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use shall be found for purposes of determining an abandonment of a water right for the duration that: ...The nonuse of a water right by its owner is a result of participation in: (I) A water conservation program approved by a state agency, a water conservation district, or a water conservancy district;

B. C.R.S. § 37-92-305 (3)(c) provides that:

In determining the amount of historical consumptive use for a water right in division 1, 2, 3, 4, 5, or 6, the water judge shall not consider any decrease in use resulting from the following:

\*\*\*\*\*

(II) The nonuse or decrease in use of the water from the water right by its owner for a maximum of five years in any consecutive ten-year period as a result of participation in:

(A) A water conservation program, including a pilot program, approved in advance by a water conservation district, water district, water authority, or water conservancy district for lands that are within the entity's jurisdictional boundaries ...;

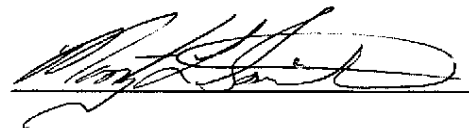
C. The Trinchera Subdistrict is authorized to pursue and is pursuing approval of a groundwater management plan (“GMP”) and subsequent annual replacement plans (“ARPs”) pursuant to the Rules Governing the Withdrawal of Groundwater in Water Division No. 3 (The Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division No. 3 for All Irrigation Water Rights (“SEO Rules”).

- D. The objectives of the GMP and the ARPs include the attaining and maintenance of sustainable conditions in the aquifer underlying the Trinchera Subdistrict and the reduction of injurious depletions caused by the operation of wells within the Trinchera Subdistrict.
- E. It will serve the objectives of the GMP and the ARPs if water users within the Trinchera Subdistrict are allowed voluntarily to limit use of water rights if such rights are protected from abandonment or reduction due to the nonuse or decrease in use of the water from the water right, to the extent allowed by C.R.S. §§ 37-92-103(2) and 37-92-305(3)(c)

NOW, THEREFORE, the following Water Conservation Program is established by the Trinchera Water Conservancy District and by the Trinchera Subdistrict

1. Any owner of a water right within the Trinchera Subdistrict, who wishes to reduce the use of such water right, subject to the protections of C.R.S. §§ 37-92-103(2) and 37-92-305 (3)(c), may do so upon application to and approval by the Board of Directors of the Trinchera Subdistrict.
2. The application to the Trinchera Subdistrict shall include the name of the owner of the water right; a description of the water right(s) to be conserved, including the source, location, decree information and permit information; location and amount of lands historically irrigated; the number and location of acres to be removed from irrigation; and any other relevant information requested by the Trinchera Subdistrict Board.
3. The Trinchera Subdistrict, Natural Prairie Colorado Farmlands Holdings, LLC (“Natural Prairie”) and others will be entering into a No-Call Agreement (“No-Call Agreement”), which provides among other things that Natural Prairie will forgo or reduce the use of certain water rights. The No-Call Agreement, as presented to the Boards on February 26, 2020 is hereby approved as consistent with and incorporated into this Water Conservation Program. Natural Prairie shall be afforded the protections of this Water Conservation Program to the extent permitted by law.

Dated this 27<sup>th</sup> day of February, 2020



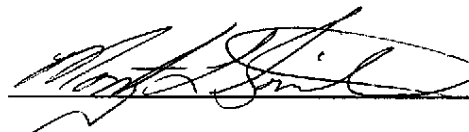
**Monty Smith**, President of the Trinchera Water Conservancy District

Certificate

I, Kimberly Wakasug do certify that the above is the true and correct copy of the Resolution approved by the Board of Directors of the Trinchera Water Conservancy District on 26th day of February, 2020.

(SEAL) Kimberly Wakasug

\_\_\_\_\_, Secretary of the  
Trinchera Water Conservancy District



**Monty Smith**, President of the  
Groundwater Management Subdistrict  
of the Trinchera Water Conservancy  
District

Certificate

I, Kimberly Wakasug do certify that the above is the true and correct copy of the Resolution adopted by the Board of Directors of the Groundwater Management Subdistrict of the Trinchera Water Conservancy District on 26th day of February, 2020.

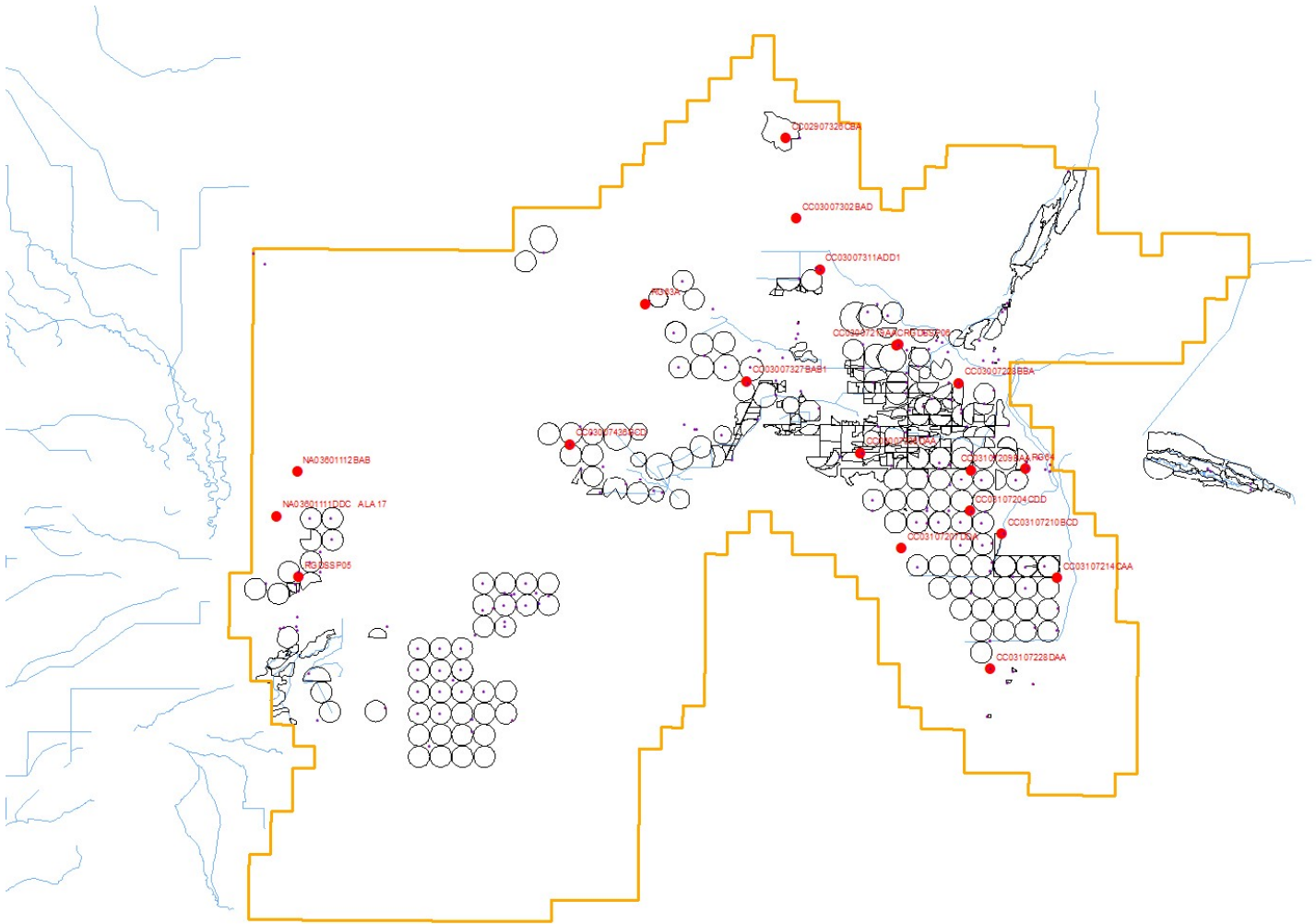
(SEAL) Kimberly Wakasug

\_\_\_\_\_, Secretary of the  
Groundwater Management Subdistrict  
of the Trinchera Water Conservancy  
District

APPENDIX E

TO THE PLAN OF WATER MANAGEMENT FOR THE GROUND WATER MANAGEMENT SUBDISTRICT OF THE TRINCHERA WATER CONSERVANCY DISTRICT

**LOCATION OF MONITORING WELLS USED TO CALCULATE COMPOSITE WATER HEAD FOR SUSTAINABILITY METRIC**



## Appendix F to Trinchera Subdistrict GMP

GROUNDWATER MANAGEMENT SUBDISTRICT OF THE TRINCHERA WATER CONSERVANCY DISTRICT									
2020 PROPOSED BUDGET									
2019 ASSESSED VALUATION: \$15,112,645/ MILL LEVY: 1.50				2020 Proposed Allotment			23000 acre feet		
<b>REVENUE</b>									
Beginning Cash Balance			49,170.04						
Tabor Reserve (Beginning Balance)			7,970.50						
2019 Mill Levy			22,668.97						
Prior Year Mill Levy			0.00						
Delinquent Assessments			0.00						
Interest			100.00						
Administrative Fees (2020)			94,500.00						
Groundwater Withdrawal Fees	25	/acre foot	575,000.00						
Past Pumping		97750		17%					
Current Pumping		431250		83%					
Over Pumping			0.00	(Up to 10X current pumping)					
(Treasurer's Fee)			0.00						
<b>Total Proposed Revenue</b>			<b>749,409.51</b>						
<b>DISBURSEMENTS</b>									
<b>PLAN DEVELOPMENT COSTS:</b>									
Salaries/ Benefits			15,000.00						
Legal Fees/Court Costs			90,000.00						
Office Supplies / Postage			150.00						
Meeting/Conference Expenses			150.00						
Engineering Expense			68,000.00						
<b>Total Plan Development Cost</b>			<b>173,300.00</b>						
<b>PLAN OPERATION COSTS:</b>									
Replacement Water Acquisition (Wet Water)			262,500.00	(75% of portfolio)					
Forbearance Agreements			87,500.00	(25% of portfolio)					
Ending Cash Balance			26,139.01						
Ending Tabor Reserve Account			7,970.50						
Post Plan Contingency Fund			192,000.00						
<b>Total Plan Operation Costs</b>			<b>576,109.51</b>						
<b>Total Proposed Expenditures</b>			<b>749,409.51</b>						

APPENDIX G  
TO  
THE PLAN OF WATER MANAGEMENT  
FOR  
THE GROUND WATER MANAGEMENT SUBDISTRICT OF THE  
TRINCHERA WATER CONSERVANCY DISTRICT

Operational Timelines

Estimated Beginning Date	Estimated Completion Date	Task
January 1	April 1	Renew Forbearance Agreements and Obtain Additional Replacement Supplies as Needed.
January 1	April 1	Renew Agreements between the Subdistrict and the Division Engineer to Administer Water to be made Available to Replace Stream Depletions.
January 1	April 1	Renew Agreements between the Subdistrict and Ditch and Reservoir Companies that will Provide Water and/or Storage Space to the Subdistrict.
January 1	January 15	Update and Print Farm Unit Reports. Send Out Farm Unit Reports on January 15.
February 1	February 1	Deadline is February 1st for Farm Units to Provide to the Subdistrict any Changes to Farm Unit Lands, Wells, Surface Water and Operations for the Current Year.
February 1	March 1	Update Database with Current Farm Unit Information. Update List of All Active Subdistrict Wells.
February 1	March 1	Obtain Updated County Assessor's Records containing Land Ownership and Parcel Identifications.
February 1	March 1	Obtain and/or Renew Contracts from Municipalities and Commercial Well Users.
February 15	March 1	Well TFM Records and Ditch Diversion Records for the Previous Year are Available from the DWR on February 15 to Download and Update in Database.
February 1	March 1	Write Draft Annual Report for Previous Year's Annual Replacement Plan. Preliminary Annual Report on Operation of Previous Year's Annual Replacement Plan Due to DWR on March 1.
February 1	March 1	Update the Sustainability Plan Metric.
March 1	March 15	Subdistrict Sets the Ground Water CU Allocation for the Current Year and Farm Units are provided with their Base CU Allocation Offer and an Estimated Farm Unit Fee Schedule.
March 15	April 1	Each Farm Unit's Statement of Disclaimed CU Allocations is due to the Subdistrict on April 1.
March 1	April 1	Obtain April 1 <sup>st</sup> NRCS Forecast of the April through September Flows of All Forecasted Streams in Division 3.
March 1	April 1	Obtain Division Engineer's April 1 <sup>st</sup> Estimate of Annual Flows for the Rio Grande, Conejos River, and Trinchera Creek.
March 1	April 1	Estimate Current Year Pumping and Ground Water Consumptive Use by Subdistrict Wells based on Anticipated Hydrologic Conditions, Historic Well Meter Records and Other Reasonable Methods.
April 1	April 15	Update Trinchera Response Function Worksheet to Estimate Stream Depletions for the Current Year.
April 1	April 15	Subdistrict Reallocates Disclaimed CU as a Special Irrigation CU Allocation and Notifies Farm Units.
April 1	April 15	Request for Approval of Proposed Current Year Annual Replacement Plan is due to DWR on April 15.

APPENDIX G  
TO  
THE PLAN OF WATER MANAGEMENT  
FOR  
THE GROUND WATER MANAGEMENT SUBDISTRICT OF THE  
TRINCHERA WATER CONSERVANCY DISTRICT

Operational Timelines

Estimated Beginning Date	Estimated Completion Date	Task
April 1	November 30	The Monthly Depletions by Stream Reach as Calculated by the Trinchera Response Function will be Replaced Daily in a Manner that Prevents Injury, unless the Owner of the Injured Vested Water Right has Either Waived any Claim of Injury, or Agreed to Accept Compensation for the Injury in a Form other than Water. Injury shall be Mitigated by the Use of: Direct Flow Replacement Water, Forbearance Agreements, and the Release of Water Stored in Reservoir.
April 2	August 20	Farm Units may Relinquish CU Allocations to the Transfer Pool or Purchase Additional CU Allocations from the Transfer Pool.
May 1	May 1	Anticipated Approval of Current Year Annual Replacement Plan by the DWR by May 1 (covering the period from May 1 of Current Year to April 30 of Next Year).
June 1	July 1	Finalize Previous Year's Annual Replacement Plan. Final Annual Report for the Previous Year's Annual Replacement Plan Due to the DWR on July 1.
June 1	August 1	On or Before August 1 of the Plan Year, the Subdistrict Board of Managers shall Prepare and Make Available a Preliminary Draft of the Proposed Budget with all Available Information Describing or Justifying the Expenditures and Revenues Contemplated and the Specific Fees or Assessments or Other Charges for Operation of the Subdistrict During the Next Year.
August 1	September 15	On or Before September 15 of each Plan Year, the Subdistrict Board of Managers will Adopt a Detailed Final Budget, utilizing the Previously Prepared Preliminary Budget, Concerning the Implementation of the Plan during the Next Year.
September 15	October 1	Update Actual Farm Unit Total Ground Water CU Allocation based upon: Base CU Allocation, CU Allocation Disclaimed, Special CU Allocation, CU Allocation Sold to Transfer Pool, Cu Allocation Purchased from Transfer Pool and Contract CU Allocation.
September 15	October 1	Land Owner Fee Schedule is due to Costilla County and Alamosa County on October 1 for inclusion on Next Year's Property Taxes.
November 15	November 15	Expected County Payment to the Subdistrict from Prior Year's Tax Assessment.
November 1	March 1	After the End of the Irrigation Season, and prior to the Submission of Next Year's Annual Replacement Plan, the Subdistrict will Recalculate the Stream Depletions caused by Subdistrict Well Pumping in the Plan Year using Actual Water Use Data and the Appropriate Response Function to Determine the Adequacy of Replacement Operations during the Plan Year. The Subdistrict will Submit a Report to the Division Engineer. If the Amount of Replacement Water Provided by the Subdistrict was Not Sufficient to Replace the Injurious Stream Depletions during the Plan Year, then Prior to the Commencement of Next Year's Irrigation Season, the Subdistrict will Deliver to the Appropriate Stream the Amount of Unreplaced Injurious Stream Depletions from the Prior Plan Year and the Division Engineer will Administer that Water to the Stateline as a Compact Delivery for the Respective Stream System.