

LA PLATA ARCHULETA WATER DISTRICT

EXCLUSION POLICY

WHEREAS, the La Plata Archuleta Water District (“District”) is a quasi-municipal corporation and political subdivision of the State of Colorado, organized and operating under the authority of Article 1, Title 32, C.R.S., also known as the “Special District Act”; and

WHEREAS, pursuant to § 32-1-501, C.R.S., the fee owner(s) of 100% of any real property situate in the District may file with the District Board of Directors (“Board”) a petition in writing (“Petition”) requesting that such property be excluded and taken from the District; and

WHEREAS, the Board shall hear the Petition and any objections to the Petition at a public meeting after publication of notice thereof as required by law; and

WHEREAS, the Board is authorized to grant or deny the Petition in whole or in part, after taking into consideration certain statutory factors and making findings thereon as required by law; and

WHEREAS, the Board now wishes to establish certain policies concerning any such Petition for Exclusion of real property from the District.

NOW THEREFORE, the following Policies of the La Plata Archuleta Water District are hereby adopted:

1. Notwithstanding anything herein to the contrary, all Petitions for Exclusion shall be considered and processed in accordance with Part 5, Article 1, Title 32, C.R.S. Without taking any formal position thereon at this time, the Board shall defer to any exclusion determination previously made by the La Plata County Assessor prior to the organization of the District both as to form and to substance.
2. A fee in the amount of Two Hundred Dollars (\$200.00) shall be paid and a check for said amount shall be remitted with any Petition as a deposit to be credited to the costs of exclusion proceedings which are required to be paid by the petitioner to the District. Such fee shall be nonrefundable whatever the Board’s determination may be to grant or deny the Petition.
3. The Petition shall be in the form attached hereto as Exhibit A. Only complete Petitions will be considered by the Board.

4. Exclusion of property from the District shall not excuse the liability of the property for any charge or lien or obligation of any bonds existing at the time of filing the Petition. No Petition shall be considered unless all unpaid charges, taxes and liens shall be paid by the petitioner at the time of filing the Petition.
5. Without limiting the Board's discretion, exclusion requests will not be granted unless made by the owners of record (i.e., on file with the County Assessor) of a surface estate and include all of the property of the petitioner within the District. Exclusion requests will be denied if made by: (a) owners of subsurface estates only; or (b) owners of personal property only; or (c) petitioners who are not owners of record with the County Assessor. For purposes of exclusion, the surface estate shall control the treatment of all other taxable property within the parcel.
6. The Board shall consider and make a finding regarding each of the following factors when determining whether to grant or deny a Petition for Exclusion:
 - (a) The best interests of all of the following: (i) the property to be excluded, (ii) the District and (iii) the County;
 - (b) The relative cost and benefit to the property to be excluded from the provision of the District's services;
 - (c) The ability of the District to provide economical and sufficient service to both the property to be excluded and all of the properties within the District's boundaries;
 - (d) Whether the District is able to provide services at a reasonable cost compared with the cost that would be imposed by other entities in the surrounding area to provide similar services;
 - (e) The effect of denying the Petition for Exclusion on employment and other economic conditions in the District and surrounding area;
 - (f) The economic impact on the region and the District, surrounding area, and State as a whole if the Petition is denied;
 - (g) Whether an economically feasible alternative service is available;
and
 - (h) The additional cost to be levied on other property within the District if the exclusion is approved.

7. In addition, exclusion shall only be granted if (a) in the opinion of the District's Engineer, it will never be feasible for the District to serve the property; or (b) in serving the property, the District would be duplicating existing public water service; or (c) the Board, in its sole and absolute discretion, determines the original inclusion of the property was improper.
8. If the property to be excluded from the District will be served by a special district not yet organized, the Board shall not order that the Petition be granted until such special district has been organized pursuant to the Special District Act.
9. For any exclusion granted by the District, the fee owner of the excluded property shall be responsible for the payment of all exclusion charges as determined by the Board, including the exclusion fee in effect at the time the Petition is filed.
10. The District's Board may withhold entry of any final order granting the Petition for Exclusion until the petitioner has fully satisfied any condition or conditions imposed by the Board, including payment of all fees and expenses, or has entered into an agreement which details the terms and conditions of exclusion.

EXHIBIT A TO EXCLUSION POLICY

PETITION FOR EXCLUSION OF LAND

IN THE MATTER OF LA PLATA ARCHULETA WATER DISTRICT

TO THE BOARD OF DIRECTORS OF THE DISTRICT:

The undersigned Petitioner, being the fee owner of one hundred percent (100%) of the real property hereinafter described ("Property"), hereby prays that such Property be excluded from the La Plata Archuleta Water District, as provided by law, and for cause, states that:

1. Assent to the exclusion of such Property from the District is hereby given by the undersigned, who is the fee owner of such Property.
2. Petitioner understands that there shall be no withdrawal from this Petition after publication of notice by the Board, without the consent of the Board.
3. The exclusion of such Property from the District shall be subject to any statutory condition of exclusion, as well as all terms and conditions established by the Board and accepted by Petitioner.
4. This Petition is accompanied by a deposit of \$200.00, sufficient to pay all costs of the exclusion proceedings, as required by statute.
5. The Property is accurately described as follows:

See Exhibit A attached hereto and incorporated herein by this reference.
6. It is in the best interests of the Property that the Property be excluded from the District.
7. It is in the best interests of the District that the Property be excluded from the District.
8. It is in the best interests of the county or counties within which the District is located that the Property be excluded from the District.
9. The relative costs and benefits to the Property justify the exclusion.

10. The District will still be able to provide economical and sufficient service to all of the properties within the District's boundaries following exclusion of the Property.

11. The District is able to provide services at a reasonable cost, but that there are other special districts in the area of the Property which can provide similar services at a reasonable cost.

12. Neither granting nor denying the Petition will have any effect on employment and other economic conditions in the District and surrounding area.

13. Neither granting nor denying the Petition will have any economic impact on the region, the District, the surrounding area, or the state as a whole.

14. There is economically feasible alternative service available from another special district in the area of the Property.

15. The additional cost to be levied on other property within the District if exclusion is granted will be negligible.

WHEREFORE, Petitioner prays that the Board of Directors of the District:

A. Set a public meeting for hearing on this Petition and publish notice thereof in accordance with Section 32-1-501(2), C.R.S.

B. Order this Petition be granted in accordance with Section 32-1-501(4)(a)(I), C.R.S.

PETITIONER:

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by _____ as _____ of _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A TO PETITION FOR EXCLUSION

(Legal Description of Property to be Excluded)