



March 13, 2020

Cleave Simpson, General Manager
Rio Grande Water Conservation District
8805 Independence Way
Alamosa, CO 81101

Peter Ampe
Hill & Robbins, P.C.
1660 Lincoln Street, Suite 2720
Denver, CO 80264

Subject: Approval of the Ground Water Management Plan for the Special Improvement District No. 4 of the Rio Grande Water Conservation District (submitted February 2020)

Dear Messrs. Simpson and Ampe,

Thank you for submitting on February 26, 2020 the Plan of Water Management prepared by the Board of Managers of Special Improvement District No. 4 of the Rio Grande Water Conservation District ("Subdistrict No. 4", aka San Luis Creek Subdistrict) and approved by the Rio Grande Water Conservation District ("District") Board of Directors on February 24, 2020.

The Plan of Water Management submitted is the official plan for Subdistrict No. 4, which includes a groundwater management plan ("Plan") within the meaning of section 37-92-501(4)(c), C.R.S. The Plan must comply with 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* ("Rules") promulgated pursuant to the authority of the State Engineer under sections 37-80-104 and 37-92-501, C.R.S. Trial was held on the Rules case (2015CW3024) in Water Court in early 2018. The Water Court entered a ruling on March 15, 2019, and the Rules became effective as of that date.

I have reviewed Subdistrict No. 4's Plan and have included my analysis as attachments to this letter. My review cites language from the Plan that addresses requirements of the promulgated Rules. There are three tables in the attachment referencing specific sections of the Rules, described below:

- 1) Table 1: Applicable Rules: Rule 6, Requirements for Withdrawals of Groundwater in Water Division 3.
- 2) Table 2: Submittal Documents: Rule 9, Subdistrict's Proposed Groundwater Management Plan.
- 3) Table 3: Compliance:



Rule 6: Requirements for Withdrawals of Groundwater in Water Division 3.
Rule 7: Standards for Determinations of Stream Depletions.
Rule 8: Standards and Monitoring Methods for Achieving and Maintaining a Sustainable Water Supply.

Recommendation

Included with the Plan documents are Subdistrict No. 4's December 2, 2019 draft Rules and Regulations. With respect to approval conditions 1 and 2 below, those draft Rules and Regulations provide additional clarity and detail regarding 'Contract Wells' and their related Stream Depletions as well as detail on alternative measurement of currently unmetered groundwater withdrawals. I recommend those draft Rules and Regulations be amended to address sustainability in a Contracting Wells' Response Area and that those Rules and Regulations be adopted by the Subdistrict Board of Managers.

Findings

Through my review, I have found that Subdistrict No. 4's Plan complies with the promulgated Rules when modified by the approval conditions below.

Approval Conditions

Pursuant to Colorado Revised Statute section 37-92-501(4)(c) the Office of the State Engineer has considered the Groundwater Management Plan and hereby approves the Plan subject to the following terms and conditions:

1. Subdistrict No. 4's Plan anticipates contracting with wells whose impacts are determined pursuant to Rule 7.3 by using an approved alternate method of calculating injurious stream depletions. For inclusion of these Contract Wells in an Annual Replacement Plan ("ARP"), Subdistrict No. 4 must:
 - Submit necessary information required by Rule 9.1.2, and
 - Receive approval from DWR for the applicable Rule 7.5 method.
2. For Subdistrict and Contract Wells that do not measure withdrawals with a meter that meets the requirements of the Rules Governing the Measurement of Ground Water Diversions Located in Water Division 3, The Rio Grande Basin, Subdistrict No. 4's Plan allows groundwater withdrawals to be measured by Subdistrict and DWR approved methods. Prior to inclusion of wells using an alternative measurement method in an ARP, Subdistrict No. 4 must:
 - In conjunction with Sections 2.5.2 and 8.1.10 of the Plan, incorporate the volumes for Subdistrict and Contract Wells quantified using such alternative methods into the groundwater withdrawals for Subdistrict No. 4's stream depletion quantifications and sustainability limits.

3. Subdistrict No. 4's Plan utilizing the wells on the received well list, complies with Rule 8.1 regarding Sustainable Water Supplies. The Plan included specific provisions addressing the requirements of Rule 8.1.7, but did not define specific benchmarks. The Plan provisions include annually reviewing progress on sustainability and the Plan's underlying Individual Petitions authorize the Subdistrict to impose limitations on individual groundwater withdrawals. The Plan describes terms addressing how the 5-yr running average groundwater withdrawal limit will be met if Subdistrict No. 4 is not in compliance with the Rules, and proposes to include measureable benchmarks as part of the Subdistrict's ARP to assure the requirements of the Sustainable Water Supply are being met.

Upon review of the Rules, the June 2019 memo on Five Year Average Groundwater Withdrawals in Confined Aquifer Response Areas in Division 3, the San Luis Valley Confined Aquifer Sustainability ("CAS") group stipulation in Case No. 2015CW3024, and the June 2019 memo on the Composite Water Head for Confined Aquifer Response Areas in Division 3, I find the Plan's proposed process is sufficient considering the annual review of progress and the ability of the Subdistrict to impose limitations on participants' groundwater use if sustainability is not being achieved. Additionally, at present only a small percentage and volume of reduction in groundwater withdrawals is needed to reach the Sustainable Water Supply parameter and the Plan requires specific actions be taken to achieve the goal.

- a. The estimate of the 1978-2000 average annual groundwater withdrawals for the San Luis Creek Response Area is 9,869 af.
- b. The CAS stipulation recognizes that the method of calculating the 5-year average of the 23-year period (1978-2000) artificially limits the 5-year average and that an adjustment of up to 10% is allowable. This would indicate that an allowable 5-year average for 1978-2000 should be 10,856 af.
- c. The most recent official calculation of the San Luis Creek Response Area 5-year average (2014 - 2018) groundwater withdrawals is 11,994 af. Preliminary metering data indicate that the 2015-2019 average withdrawals were 11,363 af. Based on the preliminary data the 5-year average must be reduced by 4.5%, or ± 508 af to be within the average noted in (b) above. .
- d. There is no obvious trend in historical groundwater withdrawals for the Response Area wells, rather, users likely have adjusted pumping in response to available surface water supplies in any year.
- e. The groundwater withdrawals from San Luis Creek Subdistrict Wells average about 67% of the Response Area groundwater withdrawals, but follow the same trend over the period of meter records. The Plan describes a method to determine the proportionate responsibility for sustainability of the Subdistrict Wells. The Subdistrict

will only be responsible for the proportionate share of the sustainability metric attributed to Subdistrict Wells.

- f. Review of the June 2019 Composite Water Head for Confined Aquifer Response Areas in Division 3 shows that the San Luis Creek Response Area had an increasing trend in composite water head until 2019 when it dropped to slightly lower than the 2016 level. The composite water level remains positive from the 2015 baseline.
- g. The Plan requires the Board of Managers to take specific actions at specific intervals after the first year of operation under the ARP to bring the Subdistrict's 5-year rolling average into compliance, including requiring mandatory reductions in groundwater withdrawals from Subdistrict and Contract Wells.

No interim benchmarks are necessary under the Plan's proposed process. Should the Subdistrict fall outside the sustainability metric after it is achieved, the Plan requires the Board of Managers to follow the same process described to return the Subdistrict's 5-year rolling average to compliance. The Subdistrict's maintenance of groundwater withdrawals to support the sustainability metric will be evaluated with each ARP.

- 4. Subdistrict No. 4's Plan contemplates contracting in wells outside of the Response Area but does not address how it will achieve and maintain its proportionate Sustainable Water Supply in aquifers in other Response Areas. For inclusion of these Contract Wells in an ARP, Subdistrict No. 4 shall:
 - o If the Contract Well is in a Response Area other than the San Luis Creek Response Area that has a Sustainable Water Supply:
 - Subdistrict No. 4 shall comply with the standards of the respective Response Area for the proportionate responsibility of the Contract Wells for achieving and maintaining a Sustainable Water Supply, and
 - In each ARP, the Subdistrict shall describe how the Subdistrict will meet the Proportional Sustainable Water Supply requirements of the Response Area where the Contract Well is located.
 - o If the Contract Well is inside of the RGDSS Model Domain, but outside Response Areas that have a Sustainable Water Supply:
 - Submit necessary information required by Rule 9.1.3, and
 - Receive approval from DWR for the applicable Rule 8.6 Alternate Plan for a Sustainable Water Supply, and
 - In each ARP, the Subdistrict shall describe how the Subdistrict will meet the Proportional Sustainable Water Supply requirements of the Response Area where the Contract Well is located.
 - o If the Contract Well is outside of the RGDSS Model Domain, Rule 8.5 provides the rebuttable presumption that aquifers outside of the RGDSS Model Domain act as alluvial aquifers and have little or no storage capacity available for use of the

aquifer as a reservoir. Therefore, the required Rule 8.6 Alternate Plan for a Sustainable Water Supply for a Contract Well from these areas would be similar to Rule 8.4 in that no Sustainable Water Supply would be required for that Contract Well.

Approval of this Plan does not authorize any change, increase, or expanded use of any water right or permit. Any change, increase, or expansion of a water right or permit will need to comply with existing decrees and or permits, the Confined Aquifer New Use Rules, the Measurement Rules, the Rio Grande Basin Groundwater Use Rules, and may require approval of the Water Court.

The Office of the State Engineer will publish notice of this approval pursuant to 37-92-501(4)(c) C.R.S. in the appropriate newspapers and in the Water Court Resume for Water Division 3.

Thank you for your efforts in preparation of Subdistrict No. 4's Plan of Water Management.

Very Sincerely,

A handwritten signature in black ink that reads "Kevin G. Rein". The signature is written in a cursive, flowing style.

Kevin G. Rein, P.E. State Engineer, Director
Colorado Division of Water Resources

ec: Division 3
enc: Tables 1-3

Table 1: Applicable Rules

			Subdistrict No. 4 (San Luis Creek Subdistrict)	
Rule	Rule Language	Comments	Section	Plan Language
6.	Requirements for Withdrawals of Groundwater in Water Division 3			
6.1.	... groundwater withdrawals within the scope of these Rules can only occur if they are made pursuant to one of the following:			
6.1.1.	A Groundwater Management Plan for a Subdistrict that has been approved by the State Engineer ... for which no judicial review is sought, or as approved by the Water Court after judicial review.	See Rules Section 9	Plan	The Board of Directors of the Rio Grande Water Conservation District (“District”) on behalf of the Board of Managers of Special Improvement District No. 4 (“Subdistrict”), submits the following Plan of Water Management (“Plan”) as the official Plan of the Subdistrict, subject to Court approval, pursuant to section 37-48-126, C.R.S. This Plan 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 (Case No. 15CW3024, District Court, in and for Water Division No. 3).
6.1.2.	A Plan for Augmentation, the decree for which was entered after the Effective Date of these Rules, that meets the applicable requirements of these Rules and the Confined Aquifer New Use Rules.	See Rules Section 10	N/A	
6.1.3.	A Substitute Water Supply Plan ... That meets the applicable requirements of these Rules and the Confined Aquifer New Use Rules.	See 37-92-308, C.R.S.	N/A	
6.1.4.	A Plan for Augmentation, the decree for which was entered prior to the Effective Date of these Rules, except as limited by Rule 10.1, that meets the requirements of Rule 8.	See Rules Section 10	N/A	

Table 2: Submittal Documents

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Document
9.	Subdistrict's Proposed Groundwater Management Plan			
9.1.1.	This information will be provided to the State Engineer in hard copy and/or electronic format, at the reasonable discretion of the State Engineer. This information includes, but is not limited to:			
9.1.1.1.	A map showing the Subdistrict boundaries	<u>Complies</u>	Supplemental	San Luis Creek Subdistrict (Exhibit A map) Prepared on 4/14/2017
9.1.1.2.	Copies of any reports, data, maps, or other materials referenced in the proposed Groundwater Management Plan	<u>Complies</u>	Supplemental	Subdistrict Rules & Regulations, DRAFT 12/2/2019
9.1.1.3.	A list of all Wells currently included within the Subdistrict's Groundwater Management Plan in a form approved by the State Engineer	<u>Complies</u>	Supplemental	The Subdistrict 4 Well Database was provided in spreadsheet format.
9.1.1.4.	The projected budget and accounting for the plan	<u>Complies</u>	Supplemental	The Subdistrict No. 4 2020 Budget provided represents a partial ARP Year for 2020, specifically for March & April 2021.
9.1.1.5.	Any other data or materials the Subdistrict believes will assist the State Engineer in reviewing the proposed Groundwater Management Plan	<u>Complies</u>	Supplemental	<ul style="list-style-type: none"> ° Petition for Establishment of Special Improvement District No 4 of the Rio Grande Water Conservation District ° Order Establishing Special Improvement District No 4 of the Rio Grande Water Conservation District (2017CV30005)
9.1.1.6.	An operational timeline specifically listing the dates, data, and other necessary information that will be supplied to the State and Division Engineers for evaluation of each Annual Replacement Plan	<u>Complies</u>	Supplemental	Plan of Water Management Special Improvement District No 4 of the Rio Grande Water Conservation District Operational Timeline (provided in spreadsheet format)
9.1.1.7.	Any other information or data requested by the Division or State Engineer that is reasonably necessary for evaluation of the proposed Groundwater Management Plan.	<u>Complies</u>	Supplemental	<ul style="list-style-type: none"> ° Subdistrict No 4 Board of Managers approval of Plan (2/5/2020 Meeting minutes, draft) ° Rio Grande Water Conservation District Board of Directors Resolution to Approve the Official Plan for Special Improvement District No 4 (San Luis Creek Subdistrict) (2/24/2020)
9.1.2.	If a Subdistrict proposes to use a methodology other than the RGDSS Model Response Functions to determine Stream Depletions, then the Subdistrict will submit that methodology to the Division and State Engineer:			
9.1.2.1.	. . . proposed methodology must be sufficiently detailed to allow the State Engineer to examine both the proposed data to be used and the method to determine Stream Depletions	<u>Complies:</u> As amended by Approval Condition No. 1	N/A	

Table 2: Submittal Documents

		Subdistrict No. 4 (San Luis Creek Subdistrict)		
Rule	Rule Language	Comments	Section	Plan Document
9.1.2.2.	. . . must submit an example of how any alternate proposed methodology will be applied and the results of that alternate proposed methodology using the most recent 20-year historical period of record	<u>Complies:</u> As amended by Approval Condition No. 1	N/A	
9.1.2.3.	. . . will include a list of projected current and lagged Stream Depletions from Subdistrict Wells, in time, location, and amount. ... based upon the most recent 20-year historical period	<u>Complies:</u> As amended by Approval Condition No. 1	N/A	
9.1.3.	Subdistrict will submit its proposed methodology to meet the applicable requirements of Rule 8.			
9.1.3.1.	. . . Plan must include a measurable, ten-year benchmark for showing progress toward compliance with Rule 8. If not met, then the State Engineer may approve an ARP submitted by the Subdistrict pursuant to Rule 11 only if the Subdistrict:	<u>Complies:</u> As amended by Approval Condition No. 4.	N/A	
9.1.3.1.1.	Adjusts its program of fees and charges within the economic means of its Well Users in order to provide funding to obtain a further reduction in groundwater consumption during the subsequent years; or	<u>Complies:</u> As amended by Approval Condition No. 4.	N/A	
9.1.3.1.2.	Takes other steps to achieve a Sustainable Water Supply within the period required by these Rules.	<u>Complies:</u> As amended by Approval Condition No. 4.	N/A	

Table 3: Compliance

			Subdistrict No. 4 (San Luis Creek Subdistrict)	
Rule	Rule Language	Comments	Section	Plan Language
6.	Requirements for Withdrawals of Groundwater in Water Division 3 (cont'd)	Rule 6.1 is found in Table 1, Applicable Rules		
6.2.	. . . Plan is only required to replace or Remedy Injurious Stream Depletions, not all Stream Depletions.	<u>Complies</u>	3.4.1. 3.4.3.	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. The implementation of the strategies set forth in this Plan are consistent with preventing material injury to senior surface water rights.
6.2 (cont'd)			8.1.10	The Subdistrict will begin replacing and/or remedying injurious stream depletions, to include any Post-Plan Injurious Stream Depletions accruing to any stream from prior Subdistrict and Contract Well withdrawals, following the approval of the first ARP in accordance with the Groundwater Rules and continuing for each ARP Year thereafter.
6.3.	. . . Plan must replace or Remedy ongoing Injurious Stream Depletions resulting from all past groundwater withdrawals from any of the Plan’s Wells.	<u>Complies</u>	2.2.3. 3.2.2.	Subdistrict Land will remain a part of the Subdistrict for as long as the Subdistrict is in existence. . . . The Plan 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 Confined Aquifer that meets the standards defined in the Groundwater Rules.
6.4.	. . . Plan must replace or Remedy Injurious Stream Depletions . . . based upon the Plan’s Wells’ proportionate Net Groundwater Consumptive Use in relation to the total Net Groundwater Consumptive Use of all Wells in the Response Area	<u>Complies</u>	2.5.2	The Subdistrict will remedy injurious stream depletions that occur as a result of Subdistrict Well groundwater withdrawals on or after the State Engineer’s approval of the Subdistrict’s first Annual Replacement Plan, as well as Post-Plan Injurious Stream Depletions impacting 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 or by some other method approved by the State Engineer.
6.4. (cont'd)			3.4.2	. . . the Subdistrict will utilize the then current Response Functions developed by the State for the San Luis Creek Response Area, or some other method approved by the State Engineer, to calculate the amount, timing and location of stream depletions caused by the withdrawal of groundwater by Subdistrict Wells or Contract Wells.
6.4. (cont'd)			8.1.10	See text of Section 8.1.10 of the Plan above addressing Rule 6.2
7.	Standards for Determinations of Stream Depletions	Rules 7.2 and 7.4 are obligations of the State Engineer		

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
7.1.	. . . the RGDSS Model must be used as the basis for predicting changes in the rate and direction of flow of groundwater, and determining Stream Depletions resulting from groundwater withdrawals within the RGDSS Model Domain.	<u>Complies:</u> As amended by Approval Conditions No. 1 and No. 2	2.5.2	See text of Section 2.5.2 of the Plan above addressing Rule 6.4
7.1. (cont'd)			3.4.2	See text of Section 3.4.2 of the Plan above addressing Rule 6.4
7.1. (cont'd)			4.2.4.1	To the extent permitted by law, and in accordance with Rules and Regulations adopted by the Subdistrict and approved by the District, the Subdistrict may recommend and request that the Board of Directors of the District contract with Non-Exempt Well owners. Rules and Regulations adopted for this purpose provide that the Subdistrict Board of Managers may only contract with well owners to include wells in the Subdistrict if the impacts from the wells can be determined using the methodology the Subdistrict will use to calculate stream depletions from Subdistrict Wells, or otherwise have an approved alternative method of calculating injurious stream depletions, and the inclusion of the well will not alter the location of the ARP's replacement obligations and that any contract to include a well in the Subdistrict's ARP will include provisions to comply with all Sustainable Water Supply requirements of the Groundwater Rules.
7.1. (cont'd)			4.2.4.1 related Rules & Regs	<p><u>Rules & Regs Section 8.1.3:</u> The Board of Managers may only allow a Participation Contract with a well owner to include a well in the Subdistrict's ARP if the impacts from the well can be determined using the same methodology the Subdistrict will use to calculate stream depletions from Subdistrict Wells, or otherwise have a State-approved alternate method for calculating stream depletions from the well, and the well will not alter the location of the ARP's replacement obligation.</p> <p><u>Rules & Regs Section 8.1.4:</u> A Contract Well's stream depletions will be calculated using the same methodology the Subdistrict will use to calculate stream depletions from Subdistrict Wells unless a State-approved method for calculating stream depletions is available. The Subdistrict will be responsible for replacing injurious stream depletions for Subdistrict and Contract Wells.</p> <p><u>Rules & Regs Section 8.1.8: Post-Plan Injurious Stream Depletions Associated with a Contract Well.</u> The Subdistrict is obligated to remedy Post-Plan Injurious Stream Depletions associated with Subdistrict Contract Wells.</p>

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
7.1. (cont'd)			4.2.2.4	Non-Exempt Wells that are not required to have a meter under the Measurement Rules . . . The Subdistrict Member who uses such a well must provide the Subdistrict the amount of water withdrawn through said well during each Water Administration Year using a method acceptable to the Subdistrict and approved by the State prior to any withdrawal of groundwater through the well.
7.1. (cont'd)			8.1.2	Any Subdistrict Member who owns and/or manages a Subdistrict or Contract Well that is not required to be metered under the State's Measurement Rules must have an alternative method of measurement approved by the Subdistrict and the State before any groundwater withdrawals occur. Any Subdistrict Well groundwater withdrawals for the prior Water Administration Year that are being measured by an approved alternative method of measurement must be submitted to the Subdistrict each year. The process for securing an approved alternative method of measurement for these types of wells will be defined in the Rules and Regulations for Subdistrict No. 4.
7.1. (cont'd)			4.2.2.4 & 8.1.2 related Rules & Regs	<u>Rules & Regs Section 6.2:</u> Those Subdistrict Wells that do not have a totalizing flow meter installed to record the groundwater withdrawals will be required by the Subdistrict to either install a totalizing flow meter on the well which meets the requirements of the Measurement Rules or submit an alternative method of measurement to the Subdistrict's Board of Managers that can demonstrate that the alternative method will produce a measurement or calculation of groundwater withdrawals within the range of accuracy required of a totalizing flow meter under the Measurement Rules.
7.1. (cont'd)			4.2.2.4 & 8.1.2 related Rules & Regs	<u>Rules & Regs Section 6.5:</u> Any Subdistrict Well with groundwater withdrawals that are not being measured by either a State-approved totalizing flow meter or an approved alternative method of measurement will be assessed the annual Groundwater Withdrawal Fee based on the maximum rate of groundwater withdrawal, as defined in the applicable court decree, or well permit if a decree does not exist, and assuming the rate of groundwater withdrawal was constant for the entire Water Administration Year, for any Water Administration Year in which the Subdistrict Well was withdrawing groundwater.

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
7.1 (cont'd)			4.2.2.4 & 8.1.2 related Rules & Regs	<u>Rules & Regs Section 6.6:</u> The annual amount of groundwater withdrawals recorded under an approved alternative method of measurement must be reported to the Subdistrict no later than December 1st following the end of the Water Administration Year in which the groundwater withdrawals occurred and the minimum groundwater withdrawals reported must be at least one (1) acre-foot. Gross groundwater withdrawals reported under an approved alternative method for measurement will be included in the Subdistrict's ARP. The Board of Managers will approve a formal method for the annual reporting of gross groundwater withdrawals being measured through an approved alternative method of measurement. The annual amount of groundwater withdrawals recorded under an approved alternative method of measurement must also be reported to the Division of Water Resources by December 1st following the end of the Water Administration Year.
7.3.	. . . the Response Functions for a Response Area must be used to determine the amount and timing of Stream Depletions to defined reaches of affected streams . . . by Wells within the Response Area.	<u>Complies</u>	3.4.2.	See text of Section 3.4.2 of the Plan above addressing Rule 6.4
7.5.	Any Well User wishing to use an alternative to the RGDSS Model to determine Stream Depletions for . . . Wells within the RGDSS Model Domain must demonstrate that the alternative . . . determines Stream Depletions . . . at least as reliably as . . . the RGDSS Model.	<u>Complies:</u> As amended by Approval Conditions No. 1 and No. 2	4.2.4.1	See text of Section 4.2.4.1 of the Plan above and see text of Rules & Regs Sections 8.1.3, 8.1.4, 8.1.8 related to Plan Section 4.2.4.1 addressing Rule 7.1
7.5. (cont'd)			8.1.2	See text of Section 8.1.2 of the Plan above addressing Rule 7.1
7.6.	For areas outside of the RGDSS Model Domain, the best practical and reliable methodology for determining Stream Depletions must be used. There is a rebuttable presumption that aquifers outside of the RGDSS Model Domain within Water Division No. 3 act as alluvial aquifers.	<u>Complies:</u> As amended by Approval Conditions No. 1 and No. 2	4.2.4.1	See text of Section 4.2.4.1 of the Plan above and see text of Rules & Regs Sections 8.1.3, 8.1.4, 8.1.8 related to Plan Section 4.2.4.1 addressing Rule 7.1
7.6. (cont'd)			8.1.2	See text of Section 8.1.2 of the Plan above addressing Rule 7.1
8.	Standards and Monitoring Methods for Achieving and Maintaining a Sustainable Water Supply	Rules 8.1.1 through 8.1.6 and Rule 8.1.8 are obligations of the State Engineer		

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
8.1.	. . . Plans . . . that include Wells located in one or more of the Confined Aquifer Response Areas . . . must contain terms for achieving and maintaining a Sustainable Water Supply	<u>Complies:</u> As amended by Approval Condition No. 4	3.5 3.5.2	The Subdistrict will comply with the Sustainable Water Supply requirements of the Groundwater Rules as they currently exist or as they may be amended in the future, including, but not limited to, Rules 8.1.7 and 8.7. The Subdistrict will consult with the State Engineer to determine the preferred methodologies to be used to define compliance with the Sustainable Water Supply requirements of the Groundwater Rules. If preferred methodologies to maintain a Sustainable Water Supply in the Confined Aquifer are amended within the Groundwater Rules, the calculations defined in paragraph 3.5.1 above will be revised to assure compliance with the Groundwater Rules.
8.1. (cont'd)			3.5.1	To assure the State Engineer the Subdistrict is in compliance with the Sustainable Water Supply requirements of the Groundwater Rules, the following analysis will be completed on an annual basis: <i>(See Section 3.5.1 & 3.5.1.1 addressing Rule 8.7 for method of determining proportional division of responsibility for meeting sustainability requirements.)</i>
8.1. (cont'd)			3.5.1.2 3.5.1.3	The Subdistrict will then calculate the rolling average of the total annual groundwater withdrawals from all Subdistrict and Contract Wells using the five most current Water Administration Years. The Subdistrict will compare the proportional share of the total Response Area groundwater withdrawals from 1978-2000 for all Subdistrict and Contract Wells calculated in paragraph 3.5.1.1 above against the Subdistrict's five-year rolling average of total groundwater withdrawals calculated in paragraph 3.5.1.2 above to determine if the Subdistrict is in compliance with the Sustainable Water Supply requirements of the Groundwater Rules.
8.1. (cont'd)			3.5.1.4	As part of the ARP, the Subdistrict will provide the information used to prepare the annual Sustainable Water Supply analysis. The ARP will also include details for all plans and/or programs the Subdistrict may implement to assist in assuring the requirements for a Sustainable Water Supply are being met, and will include, if necessary, measureable benchmarks the Subdistrict will use to demonstrate progress towards compliance. When necessary, and in addition to any other plans or programs the Subdistrict has implemented to assist in assuring a Sustainable Water Supply in the Confined Aquifer, the Subdistrict will: 1) create and enhance a program to require incremental reduction in groundwater withdrawals from Subdistrict and Contract Wells and/or 2) create and enhance a Confined Aquifer recharge program to offset groundwater withdrawals from Subdistrict and Contract Wells.

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
8.1. (cont'd)			2.2.2. 4.2.4.1	<p>. . . the Subdistrict Board of Managers may contract with well owners whose well impacts are not determined by the San Luis Creek 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.</p> <p>To the extent permitted by law, and in accordance with Rules and Regulations adopted by the Subdistrict and approved by the District, the Subdistrict may recommend and request that the Board of Directors of the District contract with Non-Exempt Well owners. Rules and Regulations adopted for this purpose provide that the Subdistrict Board of Managers may only contract with well owners to include wells in the Subdistrict if . . . any contract to include a well in the Subdistrict’s ARP will include provisions to comply with all Sustainable Water Supply requirements of the Groundwater Rules.</p>
8.1. (cont'd)			4.2.4.1 related Rules & Regs	<p><u>Rules & Regs Section 8.1.9: Sustainable Water Supply Requirement for a Contract Well.</u> Under the Groundwater Rules, the Subdistrict is required to achieve and maintain a Sustainable Water Supply in the Confined Aquifer. Groundwater withdrawals from Contract Wells will be monitored by the Subdistrict, as described in Section 3.5 of the Plan, to ensure the Subdistrict can meet this requirement. If at any time the Subdistrict’s Board of Managers determines current Subdistrict plans and/or programs are not sufficient to achieve a Sustainable Water Supply in the Confined Aquifer, the Board of Managers may require an incremental reduction in groundwater withdrawals from Subdistrict and Contract Wells in an amount necessary to assure the State the Subdistrict is able to meet this requirement.</p>

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
8.1.7.	<p>The Plans . . . must include provisions and benchmarks addressing how its proportionate share of groundwater withdrawals will be incrementally reduced so as to achieve the average annual withdrawal for the Response Area as provided by Rule 8.1.6 . . . by the tenth year after the approval of the first Annual Replacement Plan or Plan for Augmentation, five year running average groundwater withdrawals, after accounting for recharge, do not exceed the average annual withdrawals for the Response Area as provided by Rule 8.1.6. In each year thereafter, subject to Rule 8.1.8, for the Response Area the metered total withdrawals on a five year running average must not exceed the average annual withdrawals for the period 1978 through 2000 as provided by Rule 8.1.6. Each Plan . . . must include terms addressing how the Plan will meet its proportional responsibility for ensuring that this . . . limit is not exceeded.</p>	<p><u>Complies:</u> As amended by Approval Condition No. 3.</p>	<p>Rule 9.1.1.5 submittal, "Petition" ¶16</p>	<p>Participation in the Subdistrict is strictly voluntary. By voluntarily petitioning lands into the Subdistrict, Landowners explicitly authorize, and agree to abide by, any groundwater allocations or limits imposed by the Board of Managers. Landowners further understand and agree that the Board of Managers may impose economic disincentives or penalties, up to exclusion from the ARP, reasonably necessary to further the goals or objectives of the Plan of Water Management or to comply with Colorado law. These covenants, as specifically set forth in the Individual Petition, will run with the land petitioned into the Subdistrict and bind all current and future owners of Subdistrict Lands.</p>
8.1.7. (cont'd)			<p>17CV30005 Individual Petitions</p>	<p>Participation in the Subdistrict is strictly voluntary. By voluntarily petitioning land into the Subdistrict, (we/I), explicitly authorize, and agree to abide by, any groundwater allocation or limits imposed by the Board of Managers, either by individual Subdistrict well or Farm Unit. (We/I) further understand that the Board of Managers may impose rules, economic disincentives or penalties, up to and including exclusion of wells from the Subdistrict's Annual Replacement Plan, deemed reasonably necessary to further the goals of the Plan or to comply with Colorado law. These covenants run with the land and bind both current and future owners of the property described below.</p>

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
8.1.7. (cont'd)			3.5.1.5	<p>If the Subdistrict is not in compliance with the Sustainable Water Supply requirements of the Groundwater Rules in the first year of operation under the ARP, the Subdistrict's Board of Managers will monitor the Subdistrict's 5-year rolling average of total groundwater withdrawals, calculated in paragraph 3.5.1.2, for the first three years the Subdistrict is operating under an approved ARP in order to determine if the imposition of a groundwater withdrawal fee lowers the annual groundwater withdrawals to within the requirements of the Sustainable Water Supply as determined by paragraph 3.5.1.3.</p> <p>If, after the first three years, the imposition of a fee does not reduce Subdistrict groundwater withdrawals to the level necessary to meet the Sustainable Water Supply requirements of the Groundwater Rules, the Board of Managers must implement one or more of the following actions: a temporary or permanent fallow program, which may include a Conservation Reserve Enhancement Program; purchase and retire groundwater rights; or, require mandatory reductions in groundwater withdrawals from Subdistrict Wells and Contract Wells.</p>
8.1.7. (cont'd)			3.5.1.5 (cont'd)	<p>If other actions taken by the Board of Managers have not brought the Subdistrict into compliance with the Sustainable Water Supply requirements of the Groundwater Rules by the end of the sixth year of operating under an annual ARP, the Board of Managers must require reductions in groundwater withdrawals from Subdistrict Wells and Contract Wells in an amount necessary to bring the 5-year running average groundwater withdrawals to within the range required for compliance by the end of the tenth year of operations.</p>
8.1.7. (cont'd)			3.5.1.5 (cont'd)	<p>At the discretion of the Board of Managers, actions may be taken in an order different than that listed above to assure the Subdistrict will meet the Sustainable Water Supply requirements of the Groundwater Rules.</p>
8.1.7. (cont'd)			3.5.1.6	<p>If, in the future, but within the 10 year period allowed to achieve sustainability as allowed by the Groundwater Rules, the Subdistrict achieves and then falls outside the applicable metric to determine compliance with the preferred methodologies to be used to define compliance with the Sustainable Water Supply requirements of the Groundwater Rules, the Subdistrict, through its Board of Managers, will implement the actions described in paragraph 3.5.1.5, above, in such amounts as necessary to return the Subdistrict's five-year rolling average to be in compliance within the 10 year time period as required by the Groundwater Rules.</p>

Table 3: Compliance

Rule	Rule Language	Comments	Section	Subdistrict No. 4 (San Luis Creek Subdistrict)
				Plan Language
8.2.	. . . Wells located in the Response Area No. 1 . . . must achieve and maintain a Sustainable Water Supply in accordance with the Groundwater Management Plan of Subdistrict No. 1 . . . Case No. 07CW52	<u>Complies: As amended by Approval Condition No. 4</u>	4.2.4.1	See text of Section 4.2.4.1 of the Plan above and see text of Rules & Regs Sections 8.1.9 addressing Rule 8.1
8.3.	. . . 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.	<u>Complies: As amended by Approval Condition No. 4</u>	4.2.4.1	See text of Section 4.2.4.1 of the Plan above and see text of Rules & Regs Sections 8.1.9 addressing Rule 8.1
8.4.	In the Rio Grande Alluvium Response Area, . . . there is no Sustainable Water Supply required	<u>Complies: As amended by Approval Condition No. 4</u>	4.2.4.1	See text of Section 4.2.4.1 of the Plan above and see text of Rules & Regs Sections 8.1.9 addressing Rule 8.1
8.5.	Plans specified in Rule 6.1 that include Wells located outside of areas depicted in Exhibits B, D, E, and F must include a Rule 8.6 “Alternate Plan to achieve a Sustainable Water Supply” for those Wells. There is a rebuttal presumption that aquifers outside of the RGDSS Model Domain act as alluvial aquifers and have little or no storage capacity available for use of the aquifer as a reservoir.	<u>Complies: As amended by Approval Condition No. 4</u>	4.2.4.1	See text of Section 4.2.4.1 of the Plan above and see text of Rules & Regs Sections 8.1.9 addressing Rule 8.1
8.6.	. . . The proponent . . . must demonstrate that an Alternate Plan reliably determines the Sustainable Water Supply and is sufficient to achieve and maintain a 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. . . Wells subject to that Alternate Plan will be curtailed at times the provisions of the Alternate Plan are not met.	<u>Complies: As amended by Approval Condition No. 4</u>	4.2.4.1	See text of Section 4.2.4.1 of the Plan above and see text of Rules & Regs Sections 8.1.9 addressing Rule 8.1

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 4 (San Luis Creek Subdistrict)	
			Section	Plan Language
8.7.	All Plans . . . that are required . . . to achieve and maintain a Sustainable Water Supply must provide for the proportional division of the responsibility . . . between all Well Users in each of the Response Areas in which the Wells included in the Plan are located. . . . based upon each Well's past, present and future groundwater withdrawals, unless the Plan's participants agree among themselves on another method of allocation of responsibility of the Plan's participants.	<u>Complies: As amended by Approval Condition No. 4</u>	3.5.1 3.5.1.1	To assure the State Engineer the Subdistrict is in compliance with the Sustainable Water Supply requirements of the Groundwater Rules, the following analysis will be completed on an annual basis: The Subdistrict will estimate the average groundwater withdrawals from all Subdistrict and Contract Wells by analyzing information included in the Groundwater Model for the purpose of modeling the 1978-2000 groundwater withdrawals for the San Luis Creek Response area. The historical 1978-2000 groundwater withdrawals from wells of Subdistrict Members which have since been abandoned or were re-permitted to be exempt from the Groundwater Rules will also be included in this estimate. This estimated average will be compared to the State-provided average groundwater withdrawals for the Response Area for the period 1978-2000, as adjusted in accordance with the stipulation entered into between the RGWCD and the State in the Groundwater Rules, to determine the Subdistrict's minimum proportional share of the total Response Area groundwater withdrawals.
8.7. (cont'd)			3.2.2	. . . The Plan 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 Confined Aquifer that meets the standards defined in the Groundwater Rules. This Plan recognizes it may be necessary for the Subdistrict to cooperate with other subdistricts to ensure that impacts to the Sustainable Water Supply in the Confined Aquifer as a result of groundwater withdrawals in those other subdistricts is not impacting this Subdistrict's ability to meet its obligation regarding a Sustainable Water Supply as required by the Groundwater Rules.