



August 9, 2018

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

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

Subject: Approval of the Plan of Water Management for the Special Improvement District No. 2 of the Rio Grande Water Conservation District (submitted April 2018)

Dear Messrs. Simpson and Ampe,

Thank you for submitting on April 24, 2018 the Plan of Water Management (“Plan”) prepared by the Board of Managers of Special Improvement District No. 2 of the Rio Grande Water Conservation District (“Subdistrict No. 2”, aka Rio Grande Alluvium Subdistrict) and approved by the Rio Grande Water Conservation District Board of Directors on October 10, 2017.

The Plan submitted is the official plan for Subdistrict No. 2, which includes a groundwater management plan within the meaning of section 37-92-501(4)(c), C.R.S. The Plan shall 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 the Water Court in early 2018. As of the date of this letter, we are awaiting a ruling from the Water Court.

I have reviewed Subdistrict No. 2’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 the Subdistrict's May 1, 2018 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 adopted by the Subdistrict Board of Managers.

Findings

Through my review, I have found that Subdistrict No. 2'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 Plan of Water Management and hereby approves the Plan subject to the following terms and conditions:

1. Subdistrict No. 2's Plan anticipates contracting with wells whose impacts are determined using an approved alternate method of calculating injurious stream depletions. Prior to inclusion of these Contract Wells in an Annual Replacement Plan ("ARP"), Subdistrict No. 2 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. 2's Plan allows groundwater withdrawals to be measured by Subdistrict approved methods. Prior to inclusion of wells using an alternative measurement method in an ARP, Subdistrict No. 2 must:
 - Receive approval of such alternative methods of measuring groundwater withdrawals from DWR, and
 - 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. 2's stream depletion quantifications.
3. Subdistrict No. 2's Plan utilizing the wells on the received well list, complies with Rule 8.4 regarding Sustainable Water Supplies. However, this Plan also contemplates contracting in wells outside of the Response Area. This Plan and approval do not address sustainability in other aquifers.
 - Therefore, Subdistrict No. 2 cannot, under this approval, contract with wells that are in areas of Division 3 where that well has an obligation to achieve and maintain

its proportional share of Sustainable Water Supply. To contract with wells that have a Sustainable Water Supply obligation, Subdistrict No. 2 would need to amend its Plan to address and comply with the appropriate sub-rules of Rule 8 and Rule 9.1.3.

- o However, 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. Under this circumstance, no amendment to the Plan would be required.

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. 2's Plan of Water Management.

Very Sincerely,

A handwritten signature in blue ink that reads "Kevin Rein".

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

cc: Division 3

Table 1: Applicable Rules

Rule	Rule Language	Comments	Section	Subdistrict No. 2 (Rio Grande Alluvium Subdistrict) 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. 2 (“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 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 (“Groundwater Rules”).
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	Section	Subdistrict No. 2 (Rio Grande Alluvium Subdistrict) 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	Included in Petition for establishment of Subdistrict
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 5/1/2018
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	Included in Petition for establishment of Subdistrict The Subdistrict Well List was also provided in spreadsheet format.
9.1.1.4.	The projected budget and accounting for the plan	<u>Complies</u>	Supplemental	Subdistrict #2 Proposed Budget 2018 (For Scenario Planning Only) Using 5-YR Average Pumping
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 2 of the Rio Grande Water Conservation District ° Order Establishing Special Improvement District No 2 (2015CV30050) ° Bylaws of Subdistrict No 2 Board of Managers
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 2 of the Rio Grande Water Conservation District Operational Timeline
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 2 Board of Managers approval of Plan (9/5/2017 Meeting minutes) ° Rio Grande Water Conservation District Board of Directors approval of Plan (10/10/2017 Meeting minutes)
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. 2 (Rio Grande Alluvium 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	Complies: 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	Complies: 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:	Not Applicable: See Rule 8.4, See Approval Condition No. 3.	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	Not Applicable: See Rule 8.4, See Approval Condition No. 3.	N/A	
9.1.3.1.2.	Takes other steps to achieve a Sustainable Water Supply within the period required by these Rules.	Not Applicable: See Rule 8.4, See Approval Condition No. 3.	N/A	

Table 3: Compliance

Rule	Rule Language	Comments	Section	Subdistrict No. 2 (Rio Grande Alluvium Subdistrict) 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 the Rio Grande and its tributaries 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 the 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.
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.

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 2 (Rio Grande Alluvium Subdistrict)	
			Section	Plan Language
6.4. (cont'd)			3.4.2	. . . the Subdistrict will utilize the then current Response Functions developed by the State for the Rio Grande Alluvium Response Area to calculate the amount, timing and location of stream depletions caused by the withdrawal of groundwater by Subdistrict Wells or Contract Wells unless and until the Response Functions are supplanted in the future by a superior technology.
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		
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	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 alternate method of calculating injurious stream depletions, and the inclusion of the well will not alter the location of the ARP's replacement obligations.

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 2 (Rio Grande Alluvium 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 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 measurement method approved by the Subdistrict before any groundwater withdrawals occur. 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 each year. The process for securing a Subdistrict-approved method to measure these types of wells is defined in the Rules and Regulations for Subdistrict No. 2.
7.1. (cont'd)			4.2.2.4 & 8.1.2 related Rules & Regs	<u>Rules & Regs Section 6.2:</u> Those owners of Subdistrict Wells that do not have a totalizing flow meter installed to record 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 Groundwater Rules.

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 2 (Rio Grande Alluvium Subdistrict)	
			Section	Plan Language
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 a Subdistrict-approved alternative method of measurement will be assessed the annual Pumping 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.
7.1 (cont'd)			4.2.2.4 & 8.1.2 related Rules & Regs	<u>Rules & Regs Section 6.5 (Section 6.5 was repeated twice in the Rules & Regs, this refers to the second 6.5)</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. 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 a Subdistrict-approved alternative method of measurement.
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	See text of Section 4.2.4 of the Plan above addressing Rule 7.1

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 2 (Rio Grande Alluvium Subdistrict)	
			Section	Plan Language
7.5. (cont'd)			4.2.4 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 Non-Exempt 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. This would also apply for wells outside of the RGDSS Groundwater Model's domain that are to be included in the Subdistrict's ARP.</p> <p><u>Rules & Regs Section 8.1.4:</u> . . . The Subdistrict will be responsible for replacing injurious stream depletions for Subdistrict and Contract Wells.</p> <p><u>Rules & Regs Section 8.1.8:</u> . . . The Subdistrict is obligated to remedy Post-Plan Injurious Stream Depletions associated with Subdistrict Contract Wells</p>
7.5. (cont'd)			8.1.2	See text of Section 8.1.2 of the Plan and related Rules & Regs 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	See text of Section 4.2.4 of the Plan above addressing Rule 7.1 and see text of Rules & Regs Sections 8.1.3, 8.1.4, 8.1.8 related to Plan Section 4.2.4 addressing Rule 7.5
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. 2 (Rio Grande Alluvium 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>The Plan with the submitted well list complies. The Plan does not comply if the Subdistrict contracts with a well or wells that has a Sustainability Requirement: See Approval Condition No. 3</u>	2.2.2.	. . . the Subdistrict Board of Managers may contract with well owners whose well impacts are not determined by the Rio Grande Alluvium 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.
8.1.7.	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.	<u>The Plan with the submitted well list complies. The Plan does not comply if the Subdistrict contracts with a well or wells that has a Sustainability Requirement: See Approval Condition No. 3</u>	2.2.2.	See text of Section 2.2.2 of the Plan above addressing Rule 8.1
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>The Plan with the submitted well list complies. The Plan does not comply if the Subdistrict contracts with a well or wells that has a Sustainability Requirement: See Approval Condition No. 3</u>	2.2.2.	See text of Section 2.2.2 of the Plan above addressing Rule 8.1

Table 3: Compliance

Rule	Rule Language	Comments	Subdistrict No. 2 (Rio Grande Alluvium Subdistrict)	
			Section	Plan Language
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>The Plan with the submitted well list complies. The Plan does not comply if the Subdistrict contracts with a well or wells that has a Sustainability Requirement: See Approval Condition No. 3</u>	2.2.2.	See text of Section 2.2.2 of the Plan above addressing Rule 8.1
8.4.	In the Rio Grande Alluvium Response Area, . . . there is no Sustainable Water Supply required	<u>Complies</u>	2.1.2.	The Colorado State Engineer, through the Groundwater Rules, has determined that the unconfined aquifer within the Rio Grande Alluvium Response Area is an alluvial aquifer tied directly to the Rio Grande itself, and so no separate sustainability requirement is necessary to comply with section 37-92-501(4)(a)(I).
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 if Subdistrict does not contract with wells that have a sustainability requirement: See Approval Condition No. 3</u>	2.1.2.	. . . no separate sustainability requirement is necessary to comply with section 37-92-501(4)(a)(I).
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 if Subdistrict does not contract with wells that have a sustainability requirement: See Approval Condition No. 3</u>	2.2.2.	See text of Section 2.2.2 of the Plan above addressing Rule 8.1

Table 3: Compliance

			Subdistrict No. 2 (Rio Grande Alluvium Subdistrict)	
Rule	Rule Language	Comments	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 if Subdistrict does not contract with wells that have a sustainability requirement;</u> See Approval Condition No. 3	2.2.2.	See text of Section 2.2.2 of the Plan above addressing Rule 8.1