



IN REPLY REFER TO:

WCG-KOzga
LND-8.00

United States Department of the Interior

BUREAU OF RECLAMATION
Upper Colorado Region
Western Colorado Area
Durango Field Office
835 East 2nd Avenue, Suite 300
Durango, CO 81301-5475



MAY 28 2009

Mr. Phil Lane
President
Pine River Irrigation District
13029 County Road 501
Bayfield, CO 81122

Subject: Recreation Management at Vallecito Reservoir, Pine River Project, Colorado

Dear Mr. Lane:

This letter supersedes my May 8, 2009, letter regarding the Memorandum of Agreement (MOA), Contract No. 4-02-40-L4010, between Pine River Irrigation District (PRID) and Bureau of Reclamation (Reclamation) for the recreation management at Vallecito Reservoir (Reservoir) which expires on June 11, 2009. Pursuant to the Letter of Extension for the MOA, signed by Reclamation and PRID, the purpose of this letter is to clarify some of the terms and conditions of the MOA and describe the assistance that can be provided to PRID.

As you know, Reclamation has been discussing a recreational jurisdictional transfer to the U.S. Forest Service (USFS) under the authority of Public Law 89-72 (16 U.S.C. 4601-18), as amended by Public Law 93-251 and Public Law 102-575. The Supervisor of the San Juan National Forest has declined to accept the transfer based on funding and staffing limitations. Therefore, based on PRID's authority and corresponding request to continue long-term recreation management, Reclamation has decided to extend the MOA and not pursue a transfer to USFS.

Per our Regional Solicitor's Office, the MOA only allows for extending the term for an additional 25 years. As discussed at our recent meetings, we understand PRID's concerns about termination if PRID is unable to continue recreation management. Article 2 of the MOA addresses the various termination scenarios. In particular, Article 2(d) recognizes that the MOA may be terminated by mutual agreement of the parties hereto. If PRID extends the MOA for 25 years and later determines it no longer wishes to manage recreation at the reservoir, Reclamation agrees to provide the mutual agreement necessary to terminate the MOA, however, Reclamation requests a 90-day timeframe to allow for a smooth transfer of recreation responsibilities from PRID to Reclamation.

Per your request for clarification of disposition of recreation revenues, Articles 13, 14 and 15 of the MOA do not change the terms of the 1953 Amendatory Repayment Contract or the boundary of land and property required for operation and maintenance (O&M) of the project works (see Contract No. Ilr-1204, Article 30 and Exhibit A - Drawing No. 191-400-49). As set forth in Article 30 - Contract No. Ilr-1204, all revenues derived from land and property required for O&M of the project works, including revenues from boating and other uses, shall become the property of PRID and the Bureau of Indian Affairs for application, five-sixths and one-sixth, respectively, on the annual cost of O&M of the project works.

Accordingly, we understand that PRID shall utilize any net earnings from recreation revenue on the annual cost of O&M of the project works.

In addition, if PRID agrees to extend the existing MOA, Reclamation agrees to provide the following assistance:

- In cooperation with PRID, Reclamation will help establish a user fee system, including but not limited to, purchasing and installing public information signs and fee tubes to be located at the various day use areas around the Reservoir. The goal is to have the system installed by the end of July 2009. Reclamation is also available to conduct or help conduct public meetings that are necessary to assist PRID in this effort. Based on our recent discussions with La Plata County Sheriff Department, we believe law enforcement will be provided to assist PRID to effectively manage recreation at the Reservoir.
- In cooperation with PRID, Reclamation will issue cease and desist letters to area businesses, such as Elk Point and 5 Branches Resorts, who appear to be using the federal estate (under Reclamation's jurisdiction) for commercial purposes without authorization and therefore, are in trespass. Reclamation's goal is to issue the notification by the end of June 2009 and then resolve the problems shortly thereafter. A draft copy of the letter is enclosed for your reference.
- Due to current inadequate recreation revenue, Reclamation can provide PRID up to \$60,000 in 2009 to help alleviate the expenses associated with recreation management at the Reservoir. In 2010, Reclamation may provide PRID up to \$60,000 for their recreation expenses; however, this future commitment is contingent on the availability of federal funding.

We appreciate your willingness to continue recreation management at Vallecito Reservoir and pledge our assistance to help make it a successful endeavor. If you have any questions, please contact Kathleen Ozga in Grand Junction at 970-248-0649 or email at KOzga@usbr.gov, or Mark Chiarito in Durango at 970-385-6577 or email at MChiarito@usbr.gov.

Sincerely,



Ed Warner
Resources Division Manager

Enclosure

WCG-KOzga
LND-8.00

DRAFT 5/28/09

SAME LETTER TO BOTH ENTITIES

Five Branches Resort
4677 CR 501A
Bayfield, CO 81122
970-884-2582

Elk Point Lodge & Cabins
21730 CR 501
Bayfield, CO 81122
970-884-2482

Subject: Use of Federal Lands for Commercial Purposes, Vallecito Reservoir, Pine River
Project, Colorado

Dear _____

As you probably know, Vallecito Reservoir (Reservoir) is a federal facility under the jurisdiction of the Bureau of Reclamation (Reclamation) and is operated and maintained by the Pine River Irrigation District (PRID). The campgrounds on the east side of the Reservoir are under the jurisdiction of the U.S. Forest Service. The remainder of lands and recreation facilities around the Reservoir, including water based recreation, are managed by PRID through contract with Reclamation.

As part of the Pine River Project, Reclamation purchased a flowage easement from previous landowners in certain locations bordering the Reservoir's property line. As we understand, your business is located on or adjacent to Reclamation's easement area near the east boundary of the Reservoir and the Pine River. We also understand you may be using the Reservoir area for commercial purposes without authorization from PRID and Reclamation.

Your use of the Reservoir area within the easement is not an issue with PRID or Reclamation. However, your commercial use of the Reservoir area outside of the easement without authorization is considered a trespass pursuant to 43 CFR §423.24(d) which states that trespassing on Reclamation facilities, lands, and waterbodies includes unauthorized conduct of commercial activities. A copy of the Final Rule is enclosed for your reference.

Within the next few months, Reclamation plans to identify its property line along the west side of the easement near the Pine River with the placement of buoy markers across the water. Any commercial use of the Reservoir area outside of the easement without proper authorization will be considered a trespass pursuant to 43 CFR §423.24(d).

If you desire to use Vallecito Reservoir for commercial purposes, you will need to apply and obtain the necessary authorization from PRID and Reclamation. If you have any questions, please contact Kathleen Ozga in Grand Junction at 970-248-0649 or email at KOzga@usbr.gov, or Mark Chiarito in Durango at 970-385-6577 or email at MChiarito@usbr.gov.

Sincerely,

Ed Warner
Resources Division Manager

Enclosure

cc: Mr. Hal Pierce
Superintendent
Pine River Irrigation District
13029 County Road 501
Bayfield, CO 81122 (w/encl)

bc: WCG-KOzga, WCD-MChiarito (w/encl)