



State Engineer's Office

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DAVE FREUDENTHAL
GOVERNOR

PATRICK T. TYRRELL
STATE ENGINEER

November 15, 2005

John Lawson
USDI Bureau of Reclamation
P.O. Box 1630
Mills, Wyoming 82644

RE: Anchor Reservoir, Permit No. 6902R

Dear John:

As noted in our recent conversation and in response to your letter dated September 16, 2005 and accompanying information on the storage capacity, I am providing you with the following information and status of the adjudication of Anchor Reservoir, Permit No. 6902R.

Based upon the information you provided, we previously had determined that the highest storage capacity reached was 8,270 acre-feet, which was an increase of 901 acre-feet over our field recommendation of 7,369 acre-feet. Using that increased capacity, we revised our report and proceeded with the recommendation to adjudicate 8,270 acre-feet. The recommendation was recently advertised in the newspaper. Upon receipt of the affidavit of publication from the newspaper, we were prepared to then transmit the report to you as holder of the permit. Upon receipt of your phone calls and faxes with me and Mr. Harry LaBonde, this adjudication process has been stopped.

I asked Loren Smith, Division III Superintendent, to further review the data that you provided and the recommendation that was proposed in our report. Mr. Smith has also looked at the Bureau of Reclamation website and found information for years previous than what you had provided us. Using this information, our decision is to use the 1967 water year when the storage capacity reached 9,252 acre-feet, which is the maximum amount stored in any one year. We will proceed with the recommendation to adjudicate 9,252 acre-feet and eliminate the balance of capacity of 8,160 acre-feet. We ask that you sign the enclosed proof of appropriation and elimination form and return them to us. During this period of time, we will place the revised recommendations and our report in the newspaper for legal publication. Should you decide not to sign the forms, then please return those forms to us as soon as possible, with a formal objection to our recommendation. Also, please send a copy of your objection to the Special Master's Office at P.O. Box 872, Thermopolis, Wyoming 82443.

During the course of our many discussions about the ways to identify storage capacity that is subject to adjudication, I have considered your concepts of using accrued capacity amounts to reach the permitted capacity. This idea results in adjudicating the full capacity and also considers using evaporative losses to count toward the adjudication of that capacity. I understand

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that the Bureau wants the adjudication of the full design capacity of 17,412 acre-feet and no elimination of capacity even though the reservoir historically has never stored that full volume. Such an approach is not in keeping with our adjudication practices for reservoir storage.

We will proceed with the recommendation to adjudicate the capacity of 9,252 acre-feet with a reduction of 8,160 acre-feet from the original design capacity. This will result in the Bureau of Reclamation holding an adjudicated water right for 9,252 acre-feet capacity in Anchor Reservoir. If, in time, technology advances to the point where the Bureau can successfully limit the effects of the natural constraints (losses) associated with this facility, a present day enlargement application could be considered in an effort to permit the 8,160 acre-feet of space remaining behind Anchor Dam.

If you have any questions or further concerns, please don't hesitate to contact me or my staff. I appreciate your views and the information that you have provided. Should you have any other information relative to the capacity of this reservoir, I urge you to quickly provide this information to us prior to the reporting of our recommendation to the court (by December 2, 2005).

Sincerely,



Patrick T. Tyrrell
State Engineer

Enclosures

cc: Loren Smith
Nancy McCann
Harry LaBonde
Allan Cunningham
Owl Creek Irrigation District
Mike Besson, WWDC