

MAR 18 2009

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March 17, 2009

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Re: *Wilderness Ranch Owners' Association's Lucky Peak Storage*
Our File No. 4477-5

Gentlemen:

Thank you again for meeting with me, Jeff Root and Butch Anderson to discuss the disposition of Wilderness Ranch Owners' Association's ("WROA") Lucky Peak storage. I am writing this letter as a summary of our discussions and a proposal of substantive terms for an agreement to comply with the requirement in Section 9 of WROA's Repayment Contract ("Contract").

1. WROA storage will be used for irrigation. The key issue for WROA and USBOR is the characterization of the use of WROA's 200 acre-feet of storage. WROA's purpose for acquiring the storage has been, and remains, to make the stored water available for irrigation use by downstream irrigation water right holders, including irrigation spaceholders, whose senior right(s) may be impacted by WROA diversions from Mores Creek. The purpose of the agreement contemplated by Section 9 of the Contract is to confirm the circumstances in which WROA's storage will be made available for downstream irrigation (or allocated to another

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spaceholder's irrigation storage account), and the process by which that delivery/accounting will take place.

I believe I am correct in saying that IDWR's view is that WROA's Lucky Peak storage will continue to be used for irrigation and will be considered "irrigation" water inasmuch as it is intended to be supplied as replacement water to and for irrigation use by senior Boise River irrigators.

2. Measurement and reporting of WROA diversions. With respect to measuring and reporting of diversions, IDWR deems the diversions from WROA's galleries the same as diversions from Mores Creek, and considers the two sources as interconnected for administration purposes. Consequently, and because the two points of diversion are licensed as alternate points, WROA will not need to incur additional expense to meter or report diversions from its galleries separately from its diversions from Mores Creek—measurement of total flow out of WROA's water treatment facility will capture both. For consistency with other Boise River water users (i.e., Simplot, Micron, United Water), WROA's system operator will transmit its daily diversion data to the watermaster on a weekly basis, unless or until a different protocol applicable to similarly situated water users becomes necessary.

3. Accounting of WROA storage. An accounting of actual WROA storage water used each year pursuant to the agreement is preferable to simply allocating WROA's entire 200 acre-feet each year because WROA diverts substantially less than 200 acre-feet annually, but like other spaceholders, will require carryover in the event of back-to-back dry years with less than full system refill. As with other spaceholders, regardless of the amount of storage WROA may be charged for in a given year, up to its full storage allocation, if the system fills, WROA's account would be "reset" and it would begin the subsequent irrigation season with a full account, less its pro rata share of evaporative losses.

For purposes of charging WROA's storage account to provide replacement water as mitigation, WROA storage would not be charged for diversions whenever both of its water rights are in priority. This would include: 1) WROA diversions during periods when flood control operations are underway; or 2) irrigation season diversions for so long as senior Boise River rights are being filled. WROA's account could be charged for its diversions during the storage season by allocating the quantity of its total storage season diversions pro rata to other Lucky Peak irrigation spaceholders. For purposes of accounting, it may be appropriate to estimate an annual base diversion volume allocable to WROA's municipal divisions. This could be accomplished by an analysis of its non-irrigation season diversions.

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4. Agreement constitutes a mitigation plan. The contemplated agreement, with substantially the above provisions, would be submitted to the Department as WROA's mitigation plan to allow for its continued diversions when its rights otherwise would be out of priority. This would be in lieu of WROA needing to pursue a transfer, exchange or other state administrative application proceeding.

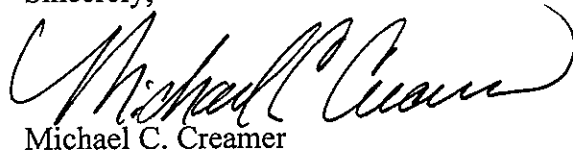
I suspect there may be other issues that will come up before the agreement can be finalized. I do believe that the above summarizes our understandings concerning the issues we discussed at our meeting and can form the initial framework for the agreement, however.

Jerry, would you please discuss these items with the appropriate people at the Bureau of Reclamation? As I recall, you believed a draft agreement most likely should start from the Solicitor's office.

David, Jerry and Rex, if any of you think I have not correctly captured the above concepts, or if you identify other potential items that should be included in the agreement, please share your thoughts at your earliest convenience.

I will look forward to working with you to conclude this interesting project.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Creamer", written in a cursive style.

Michael C. Creamer

MCC:ch

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