

Chrono

OCT 18 2010

LC-4200
WTR-4.03

CERTIFIED – RETURN RECEIPT REQUESTED

Honorable Timothy Williams
Chairman, Fort Mojave Indian Tribe
500 Merriman Avenue
Needles, CA 92363-2299

Subject: Approval of Inadvertent Overrun and Payback (IOP) Plan for the Fort Mojave Indian Tribe (Tribe) in California

Dear Chairman Williams:

On July 9, 2010, the Tribe submitted for our approval an IOPP payback plan (Payback Plan) outlining conservation measures to be performed in 2010 to repay overruns of Colorado River water accrued by the Tribe's California Reservation between 2004 and 2009. The Payback Plan described how partial year fallowing would be implemented on lands operated by the Tribal Farm, Avi Kwa'Ami. The Payback Plan included a fallowing program, schedule of deliveries, and a limitation on the diversions to the Avi Kwa'Ami Farms designed to conserve up to 4,070 acre-feet of water for calendar year 2010. We approved the Payback Plan by letter dated July 30, 2010 (copy enclosed).

According to the approved Payback Plan, the Tribe would irrigate wheat, alfalfa, and bermuda seed grass on the Avi Kwa'Ami Farms until mid-June. By the end of June, all irrigation of crops on this farm was to stop until late fall. At that time, wheat would be planted if sufficient water remained, based on the Payback Plan's limit of 6,250 acre-feet of water for the Avi Kwa'Ami Farms which ensured the conservation of 4,070 acre-feet.

The Payback Plan describes the methodology that the Bureau of Reclamation can use to verify the conservation measures are being performed. The methodology includes on-site field verification inspections and monitoring of the California 1 gage, which measures the flow of all water deliveries to the Avi Kwa'Ami Farms.

The field verification inspection performed by Reclamation in July discovered ponding in some of the bermuda fields and saturated soil in numerous irrigation ditches. These conditions indicated irrigation was ongoing in the bermuda fields. Official records from the California 1 gage indicate that irrigation has been ongoing since July with a total diversion to the Avi

Kwa'Ami Farms of 4,644.5 acre-feet as of September 23, 2010. Irrigation of these fields is not in conformance with the Tribe's approved Payback Plan.

Subsequent discussions and email exchanges with Mr. John Algots indicated that the Tribe has continued irrigation of the bermuda during the summer at the recommendation of the Tribe's bermuda customer. We understand the continued irrigation was to prevent damage to the crop and reduced yield in the future. Mr. Algots informed Reclamation by email that the current plan is to continue irrigation of the bermuda grass and then reduce the irrigation currently planned for wheat in October and November of 2010 by an equal amount in order to maintain the 4,070 acre-feet of extraordinary conservation.

In accordance with the IOP Policy and IOPP Procedures, credit for an IOPP payback may only be claimed from extraordinary conservation taking place on the land and by the measures described in an approved IOPP payback plan. With the change in use the full amount of conservation originally claimed may be difficult to achieve. Any diversion of water to the Avi Kwa'Ami Farms in excess of 6,250 acre-feet will result in a reduced payback credit. For example, if the full amount of water anticipated to be used on the Tribal leased lands is not used, such unused water may not be transferred for use on the Avi Kwa'Ami Farms and be credited towards payback.

In our view, the Tribe's continued irrigation of the bermuda fields represents a modification of the approved Payback Plan. We request that the Tribe submit a revised 2010 payback plan for our review and approval by October 22, 2010, to remain in compliance of the IOP Policy and IOPP Procedures.

By February 28, 2011, the Tribe is required to submit a report to Reclamation certifying the amount of water that was conserved. Reclamation will then review the report and verify the amount of water for which the Tribe will receive credit against its overrun obligation.

If you have questions about the IOP Policy, the IOPP Procedures, or Reclamation's monitoring of the Tribe's 2010 payback efforts, please contact Mr. Paul Matuska, Water Accounting and Verification Group Manager, at 702-293-8164.

Sincerely,

LORRI GRAY-LEE

Lorri Gray-Lee
Regional Director

Enclosure

cc: See next page.

cc: Mr. Gerald Zimmerman
Acting Executive Director
Colorado River Board of
California
770 Fairmont Avenue, Suite 100
Glendale, CA 91203-1035

Mr. Herb Guenther
Director
Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, AZ 85012-2105

Mr. George M. Caan
Director
Colorado River Commission of
Nevada
555 East Washington Avenue, Suite 3100
Las Vegas, NV 89101-1065

Ms. Catherine Wilson
Supervisory Water Rights Specialist
Bureau of Indian Affairs
Western Regional Office
2 Arizona Center
400 North 5th St. 12th Floor
Phoenix, AZ 85004-4908

Ms. Janice Staudte
Superintendent
Colorado River Agency
Bureau of Indian Affairs
12124 First Avenue
Parker, AZ 85344

Mr. John Algots
Director
Department of Physical Resources
Fort Mojave Indian Tribe
500 Merriman Avenue
Needles, CA 92363-2299

bc: Program Manager, Boulder City, NV
Attention: NAAO-1100 (RThayer)
Chief, Boulder Canyon Operations Office, Boulder City, NV
Attention: LC-4000 (SHvinden), LC-4100 (CCulter)

4200 Chrono daily WBR:PMatuska:lm:702-293-8164:09/24/2010:correction:pk:9/27/10
N:\COM400\LETTERS\4200\4200-Matuska\FY2010\9-24-10\Request for revised 2010 payback
plan 9-22-10 (3).docx