

RECLAMATION

Managing Water in the West

FINDING OF NO SIGNIFICANT IMPACT- CONTRACT BETWEEN THE UNITED STATES AND THE PINE RIVER IRRIGATION DISTRICT FOR THE USE OF PROJECT WATER FOR MISCELLANEOUS AND OTHER USES

**United States Department of Interior
Bureau of Reclamation
Upper Colorado Region
Western Colorado Area Office**

February, 2007

United States Department of the Interior
Bureau of Reclamation

FINDING OF NO SIGNIFICANT IMPACT

Contract between the United States and the Pine River Irrigation District for the use of Project Water for Miscellaneous and Other Uses

Background and Proposed Alternative

In accordance with the National Environmental Policy Act of 1969, as amended, and based on the following, the Bureau of Reclamation (Reclamation) has determined that a contract that will initially make up to 3,000 acre-feet (af) of Pine River Project (Project) water available for other uses, primarily domestic water supplies, will not result in a significant impact on the human environment and does not require preparation of an environmental impact statement.

The Pine River Project is a Reclamation irrigation project managed by Pine River Irrigation District (District) in southwestern Colorado. The District has the right to 5/6 of the water stored in Vallecito Reservoir to meet the needs of its shareholders. In addition, 1/6 of the water stored in the reservoir is held by the Bureau of Indian Affairs in trust primarily for the Southern Ute Indian Tribe under the Pine River Indian Irrigation Project.

The proposed Contract is designed to make available a limited amount of the District's Project water to provide domestic water supplies to a growing area. A final environmental assessment (EA) has been prepared by Reclamation in cooperation with the District, and public scoping meetings and open contract negotiations have been held. Written comments were received on the draft EA and are summarized in the final EA.

The proposed action is "execution of a contract between the District and Reclamation that makes a limited amount of project irrigation water available for miscellaneous uses (primarily domestic uses) other than irrigation and that further documents the terms and conditions for using the water."

While the proposed Contract identifies up to 6,700 af of the District's Project water to be potentially used, the Proposed Alternative only addresses and approves the use of up to 3,000 af of water. There would be no provision for water distribution facilities. Use of the remaining 3,700 af identified in the Contract would be subject to compliance with NEPA and the Act of February 20, 1920 (41 Stat. 451), referred to as the "1920 Act."

Under the Proposed Alternative, the District would be authorized to use up to a total of 3,000 af of project irrigation water for municipal and domestic and miscellaneous uses. Water provided (leased) would be released from Vallecito Reservoir, the major feature of the Pine River Project, to the Pine River or taken directly from Vallecito Reservoir or upstream tributaries. The Proposed Alternative is designed to meet increased water needs in the project area and would provide the following:

- Existing non-irrigation uses of Project water would continue and would be in conformance with Federal law. This represents approximately 400 af of individual water uses (individual uses being less than 20 af and termed a “minor use”) and use of a total amount of 150 af by the Town of Bayfield and the Forest Lakes Metro District. The minor uses would be handled contractually under individual “Application for Exchange” agreements, and Bayfield and Forest Lakes would be contractually handled under separate Third Party Contracts¹, subject to approval by Reclamation.
- Project water, totaling approximately 1,600 af, would be made available by the District for future minor uses within the Project service area (less than 20 af per use) using the “Application for Exchange” as the approving document.
- Project water, totaling 850 af, would be made available by the District for future Third Party Contracts within the Project service area.

The District would charge non-irrigation water users based on operation and maintenance costs; contract administration costs; and annualized system improvement costs, replacement costs, and water conservation activity costs associated with the Pine River Project. A portion of revenues would be paid to the United States to be deposited into the Reclamation Fund to the credit of the Pine River Project. Congressional authorization would be required for the District to use funds from the Reclamation Fund and the use of funds would be subject to evaluation under NEPA.

The Proposed Alternative would only make water available for use. Distribution of the water is not part of the action. The action also does not provide approval or control for any particular land use; land use planning would remain the responsibility of appropriate local and Tribal governments.

Water would be released from Vallecito Reservoir (1) as exchange water to the Pine River²; or (2) to the Pine River for direct diversion by private parties or other users, through existing, improved, or new diversion facilities. The water would meet the needs of a growing population in the area. While the proposed Contract identifies up to 6,700 af of water to be potentially used, the final EA and finding of no significant impact only address approval of use of 3,000 af of that water, all of which would be used within the existing service area of the District. The service area includes the entire Pine

River Basin, the lower Piedra River Basin, and the Florida River Basin east of the Florida River.

¹ As defined in the Contract, a Third-Party Contract means a contract between the District and a Third Party Contractor, pursuant to the Reclamation/District Contract and subject to the approval of the United States, for the delivery of leased water. Minor uses are defined as those existing and future uses whose individual Leased Water allocations are equal to or less than 20 acre-feet and are not contracted for under a Third Party Contract.

² Exchange water is water provided from Vallecito Reservoir to offset the diversions of junior or non-decreed water uses in the Pine River so that those uses can continue to divert. For example, a new domestic well can lease exchange water that can be released from Vallecito to the Pine River to replace the well’s diversions and thus protect senior water rights in compliance with Colorado water law.

Consideration was given to having the EA provide complete NEPA compliance on additional future Third Party Contracts (for a total of 6,700 af). While this potential future use is mentioned in the EA, Reclamation does not believe that there is sufficient information on this potential future water use, primarily as it relates to impacts to the basin hydrology, at this time to provide NEPA compliance and that future environmental analysis will be needed before any such future use could be approved.

Under the No Action Alternative, the contract to authorize use of Project water for miscellaneous purposes would not be entered into by the District and Reclamation. Existing non-irrigation uses of Pine River Project water might continue in non-conformance with Federal law. Another more likely outcome would be that the United States would attempt to resolve the existing uses by some other method, such as entering into a contract action to authorize only the existing M&I water uses. Under these scenarios, no additional water would legally be made available for future non-irrigation use by the District.

Issues

Reclamation has concluded there are no significant impacts to the identified affected resources as a result of implementing the Proposed Alternative. Primary concerns raised during the contract negotiations and EA process were the effect of the Contract on agriculture, the effect on growth in the area, the effect on reservoir releases, and the effect on Indian Trust Assets.

- Irrigation supplies to District shareholders and the Southern Ute Indian Tribe would be protected as described in the EA. The Tribe's 1/6 portion of stored water in Vallecito Reservoir would not be impacted by the Contract because the Tribe's water would not be included in the water to be made available for other uses.
- Water would be made available for future growth but this growth would be regulated by local and Tribal governments. Present trends of increased home and small tract development are expected to continue.
- Reservoir releases could increase slightly in the irrigation season and decrease slightly in the fall and winter, but would not be significantly different than now occur and fish and wildlife and recreation resources should not significantly change.
- Indian Trust Assets, including water rights and water supplies, would not be affected.
- Measures to protect cultural resources are included in the Proposed Alternative.
- There would be no increase in water depletions and endangered species would not be adversely affected.

Completion of this finding of no significant impact was contingent on a finding by Reclamation that the proposed action is in compliance with the 1920 Act, which, among other provisions, states that a proposed miscellaneous use shall not be detrimental to

Completion of this finding of no significant impact was contingent on a finding by Reclamation that the proposed action is in compliance with the 1920 Act, which, among other provisions, states that a proposed miscellaneous use shall not be detrimental to existing irrigation uses or to the rights of any prior appropriator.

Environmental Commitments

Any additional future use of irrigation water for M&I purposes not addressed by this EA including any Minor Uses water totaling greater than the 2,000 af as described in the proposed Contract and any Third-Party Contracts for greater than the initial 1,000 af as described in the proposed Contract, will require additional NEPA compliance. The District will not take any actions through the proposed Contract which are not in conformance with the NEPA document for the proposed Contract without additional NEPA compliance.

If a water lease involves construction of a new diversion facility and/or improvements to an existing diversion facility on the Pine River, there may be impacts to historic resources. Those proposed undertakings, once identified, would undergo standard cultural resources review under applicable laws and policies. Since the area(s) of potential impact are rather small, it is anticipated impacts will be avoided or minimized in the event that historic properties are identified. The review would be limited to the diversion facility itself, since as stated earlier, neither distribution of water nor approval of water use is a part of the Proposed Alternative.

Summary

As stated above, Reclamation has selected the alternative that makes available 3,000 af of water to meet current domestic needs and provide the framework for meeting future needs. This alternative protects existing water uses, and the effects on reservoir operations and resources are minor.

Concur:



Steve McCall

Environmental Specialist

Western Colorado Area Office

2/6/2007
Date

Approved:



Carol DeAngelis

Area Manager

Western Colorado Area Office

2/6/2007
Date