

# Reclamation Manual

## Policy

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**Subject:** Prohibition on Future Contracts for the Sale or Use of Project Water or Surplus Project Water Pursuant to the Warren Act of 1911

**Purpose:** Prohibits the use of the Warren Act for future contracts for the sales of project water or surplus project water, because other more appropriate authorities are now in place.

**Authority:** Act of February 21, 1911, ch. 141, 36 Stat. 925; and Act of August 4, 1939, ch. 418, 53 Stat. 1187.

**Contact:** Office of Policy, Reclamation Law and Revenues Management, D-5200; and Water Contracts and Repayment, D-5600

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1. **Definition of Project Water.** Project water means surface or ground water, including project return flows, which is pumped, diverted, and/or stored:
  - A. Based upon the exercise of water rights which have been appropriated or acquired by the United States or others, or which have been decreed, permitted, certificated, licensed, or otherwise granted to the United States or others, for a Reclamation project or a WCUA project, or
  - B. Based upon a withdrawal or reservation of water from appropriation by the United States for a Reclamation project or a WCUA project, or
  - C. In accordance with section 215 of the Reclamation Reform Act of 1982 (43 U.S.C. 390oo), or
  - D. Based upon an act of Congress which allocated or apportioned water to a Reclamation project or a WCUA project.
2. **No New Contract.** Effective immediately, no new contracts for the sale or use of project water or surplus project water from a Reclamation project shall be entered into based upon the Warren Act of 1911 (43 U.S.C. 523-525). Rather, all future contracts for the sale or use of project water or surplus project water shall be entered into based upon the Reclamation Project Act of 1939 and/or other applicable authorities.
3. **Existing Contracts to Remain in Effect.** Contracts for the sale of project water or surplus project water executed heretofore pursuant to the Warren Act shall remain in effect. However, such a contract may not be amended to extend its term nor renewed if and when it expires. If and when such an existing contract expires, any new contract for the sale or use of project water or surplus project water shall be entered into based upon the Reclamation Project Act of 1939 and/or other applicable authorities. An assignment of

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a permanent Warren Act contract to another person or entity can be permitted provided no changes have been made in the contract provisions.

4. **Exceptions.** Regional Directors may request exceptions from this prohibition from the Commissioner. These exceptions will be considered on a case-by-case basis.