

Reclamation Manual

Directives and Standards

Subject:	Payments in Lieu of Taxes (PILT)
Purpose:	The purpose of this Directive and Standard (D&S) is threefold: (a) to define the responsibility of the Bureau of Reclamation for reporting those PILT entitlement acres located within Reclamation's project boundaries, where appropriate; (b) to ensure there is no multiple reporting or lack of reporting of PILT entitlement acres by Reclamation or between Reclamation and other Federal agencies; and (c) to outline how various land categories must be coded in Reclamation's Real Property Inventory System (System) to meet Reclamation's reporting requirements under the PILT Act and its regulations. The benefit of this D&S is that project land will be properly identified and categorized so that Reclamation can meet its statutory requirements for reporting PILT entitlement acres associated with its Federal water and related projects.
Authority:	Public Law 94-565 (October 20, 1976), 90 Stat. 2662 (PILT Act), as amended by Public Law 97-258 (September 13, 1982), 31 U.S.C. § 6901-6907, as amended by Public Law 103-397 (October 22, 1994), 108 Stat. 4156. Regulations are at 43 CFR 44, Financial Assistance - Local Governments
Approving Official:	Director, Office of Program and Policy Services (OPPS)
Contact:	OPPS; Land Resources Office, 84-53000

1. **Introduction.** PILT are Federal payments to states or counties (referred to as "units of general local government" in the PILT Act) that help offset losses in property taxes due to the nontaxable status of Federal lands within state or county boundaries. Reclamation must comply with the PILT Act by properly identifying and reporting annually, by state and county, those acres of land owned by the United States under Reclamation's jurisdiction that are used for water resource development projects or mitigation activities and which are reportable under the PILT Act. This land is referred to as "entitlement land."¹
2. **Definitions.** For the purposes of this D&S, the following terms apply:
 - A. **Entitlement Land.** Refers to acquired fee title (including mitigation land) and withdrawn land over which Reclamation or another Federal agency exercises jurisdictional authority. The counties containing such land are "entitled" to receive PILT payments under the PILT Act.^{2, 3}

¹See 31 U.S.C. § 6901(1)(C), which states that entitlement land means land "dedicated to the use of the Government for water resource activities."

²Definition adopted from Associate Solicitor Lawrence Jensen's 4/24/85 opinion (LBR ER 0187), subject: Definition of Entitlement Land.

³Columbia Basin Project Act (CBPA): Under the CBPA, lands receiving payments are also considered entitlement land for purposes of the PILT Act (see Boise Field Solicitor Balzarini's opinion, dated 11/29/04).

Reclamation Manual

Directives and Standards

- B. **Jurisdiction.** Refers to situations where Reclamation is the agency that exercises authority over acquired and withdrawn Federal land required for project purposes or for mitigation or settlement purposes. There may be situations where other agencies, including managing partners, perform day-to-day management functions on the land, but on which Reclamation retains the responsibility and authority.
- C. **Land Categories.** Refers to the following types of Reclamation project land: acquired fee title, withdrawn from the public domain, and easement rights, and these are annotated by an “A” (and in special cases “AJ”), “W,” and “E” (and in special cases “EJ”)⁴, respectively, in the System.
- D. **Non-Entitlement Land.** Refers to any easements or other non-fee land rights and any land acquired by Reclamation for project or mitigation purposes from a church, a school district, or other tax-exempt entity.
- E. **Overlapping Jurisdiction.** Refers to situations where Reclamation holds jurisdiction over the land for operation of a project but another Federal agency has concurrent or overlapping jurisdiction to carry out its mission subject to Reclamation’s jurisdictional requirements for its project. Examples of overlapping jurisdiction: the National Park Service administers public recreation at Reclamation’s Lake Powell reservoir; or the U.S. Forest Service manages resources at various Reclamation projects under specific legislative authorities and jurisdictions.
- F. **PILT Reported By.** Refers to the data field in the Land screen of the System that corresponds with (1) which agency has taken responsibility for reporting the particular PILT entitlement acres, or (2) non-entitlement acres. This field has been previously referred to as the “Legislative Jurisdiction Code.”
- G. **System.** Refers to Reclamation’s sanctioned Real Property Inventory System utilized to maintain and report inventory of Reclamation’s real property including, but not limited to, acquired fee title land, withdrawn land, and easements or other land rights. Among many other data elements, this System contains information on the state and county PILT entitlement classifications in the “PILT Reported By” field by parcel for all Reclamation land holdings. The System information is used to generate the annual PILT entitlement acreage report to the Department of the Interior.
- H. **Withdrawal Overlap.** Describes situations where there have been intentional and valid individual withdrawals over time for multiple Reclamation projects. A portion of

⁴The special cases associated with “AJ” (acquired jurisdiction) and “EJ” (easement jurisdiction) land categories are unique situations where Reclamation either holds title (in the case of AJ) or holds easement rights (in the case of EJ) to project land where the title or right was purchased with non-Reclamation monies. The initial acquisition costs for this land or easements are not recorded in Reclamation’s financial system; however, Reclamation wants the inventory of the AJ and EJ acres in the System. These special cases have occurred in the Central Utah Project. AJ acres are treated as fee title and are entitlement land for PILT purposes, whereas EJ acres are easements that are not entitlement land.

Reclamation Manual

Directives and Standards

these various withdrawals superimpose acres on top of one another and potentially result in land inventory overlaps. As a result, the same Reclamation PILT entitlement acres may be counted more than once and result in an overstatement of the total PILT entitlement acres reported by Reclamation in the respective counties wherein those multiple withdrawals have occurred.

3. **Responsibility for Reporting PILT Entitlement Acres.**

A. Each Regional Director, or their designee, is responsible for:

- (1) Ensuring land within their regional office boundaries and projects is properly coded in the System in accordance with this D&S;
- (2) Identifying, inventorying, and resolving overlapping jurisdiction issues with other Federal agencies and those withdrawal overlaps among Reclamation projects; ensuring that the agency taking responsibility for reporting the PILT entitlement acres is properly recorded in the System's "PILT Reported By" and "Notes" fields; and ensuring written documentation is completed as to which agency will be responsible for reporting PILT on the overlapped acres; and
- (3) Submitting to OPPS, on an annual basis, the results of the regional review and verification of regional project land qualifying as PILT entitlement acres.

B. Each Regional Realty Officer, or their designee, is responsible for:

- (1) Overseeing the PILT regional review process and serving as a technical liaison to the Regional Director, Area Managers, regional and area realty staff, and OPPS on regional PILT issues; and
- (2) Working with their Area Office staff, as appropriate, to examine both overlapping jurisdiction between agencies and withdrawal overlaps that may exist among projects to ensure that either multiple reporting of or failure to report PILT entitlement acres does not occur.

C. OPPS is responsible for:

- (1) Providing System reports to the regions, as requested;
- (2) Compiling periodic and annual PILT reports;
- (3) Coordinating regional comments on the annual PILT reports and maintaining a centralized file containing regional variance explanations on significant changes to PILT entitlement acres; and

Reclamation Manual

Directives and Standards

- (4) Compiling Reclamation's annual PILT report from the System, with brief variance explanations, and submitting the report under the Commissioner's signature to the Department by the date required.
4. **PILT Reported By Codes.** One of the following codes must be assigned to all land inventory records for properly recording the PILT reportable status. These System codes designate specific parcels of land used to compile the PILT entitlement acres by state and county for Reclamation's annual PILT report to the Department:
- A. **R - Entitlement Land that is Reportable by Reclamation.** Acquired fee title ("A"), withdrawn ("W"), and acquired jurisdiction ("AJ") project lands are generally PILT entitlement land. All such entitlement land shall be coded with an "R" in the "PILT Reported By" field. Exceptions to this requirement are as follows:
- (1) If land was owned or administered by a state or county and was exempt from real estate taxes at the time the land was conveyed to the United States, then the land is not entitled to PILT payments and will be coded with an "N" in the "PILT Reported By" field. Except: PILT entitlement payments may be made under the following special circumstances:
- (a) If a state or county acquires land from a private party and donates that land to the United States within 8 years of acquisition, then the land is considered entitlement land⁵ and Reclamation will code that land with an "R" in the "PILT Reported By" field.
- (b) If a state obtains Reclamation land through an exchange and that land was considered Reclamation PILT entitlement land prior to the acquisition, then the land is still considered entitlement land⁶ and Reclamation will code that land with an "R" in the "PILT Reported By" field. (See also Paragraph 5, Land Disposal.)
- (c) If Reclamation acquires State of Utah land in exchange for Federal land, royalties, or other assets, and if at the time of acquisition, the county was entitled under state law to receive payments from the State of Utah "payment in lieu of taxes" program for the same land, then the Federal PILT payment to the county may not exceed the payment the state would have disbursed had the land not been acquired by the United States.⁷ The land is considered entitlement land and Reclamation will code that land with an "R" in the "PILT Reported By" field.

⁵See 31 U.S.C. § 6902 (b)(1)

⁶See 31 U.S.C. § 6902 (b)(2)

⁷See 31 U.S.C. § 6902 (b)(3)

Reclamation Manual

Directives and Standards

- (2) If there are withdrawal overlaps among multiple Reclamation projects involving PILT entitlement acres, then only one set of PILT entitlement acres shall be reported by Reclamation. To avoid what would otherwise be an over-reporting of Reclamation PILT entitlement acres to the Department and overpayment of PILT to the associated states or counties, three actions must occur:
- (a) All overlapping withdrawn acres will be coded as “**R**” in the “PILT Reported By” field under the respective projects because they are, in fact, entitlement lands.
 - (b) However, only one set of overlapped acres in any one project will be coded as “**W**” (for withdrawn acres) in the “Land Category” field of the System’s Acquisition screen. (These will be the acres actually reported for PILT purposes.)
 - (c) All other overlapping withdrawals in the remaining projects will be coded with a “**W2**” in the “Land Category” field on the Acquisition screen so that the System will not count these acres for PILT reporting purposes. In the “Notes” field of the Acquisition screen, these other projects containing the same or a subset of the same overlapping withdrawn acres will be annotated to create a cross-reference among the projects’ parcels of land for future reference.
- (3) If a public land order (PLO) has been published in the Federal Register by the Bureau of Land Management (BLM) revoking the withdrawal in response to a request for relinquishment submitted by Reclamation, then these acres will be coded with an “**L**” in the “PILT Reported By” field as BLM will now be responsible for reporting them for PILT purposes. Note: Until the effective date of the PLO, Reclamation will continue to report these lands as “**R**.”

B. N – Non-Entitlement Land. Any land acquired from a church, school district, or other tax-exempt entity by Reclamation for a project or for mitigation purposes, or any land use authorized under easement or other land right granted to Reclamation (including land coded as jurisdictional easement or “**EJ**”) is not entitled to receive PILT payments. These acres will be coded with an “**N**” in the “PILT Reported By” field as they are not entitlement land and thus are not reportable by Reclamation or any other agency.

C. Overlapping Jurisdiction with Other Agencies.

- (1) In addition to “**R**” for PILT entitlement land reportable by Reclamation, the System also contains the “PILT Reported By” codes listed in Paragraph 4.C.(2) below, for other possible jurisdictional scenarios of Reclamation project land. These codes will generally remain unchanged in the System unless there is a change in withdrawal or land status, or a future agreement or determination is

Reclamation Manual

Directives and Standards

made that an agency or bureau other than Reclamation will report specific project entitlement land for PILT purposes.^{8, 9} The “PILT Reported By” code may also be changed if an error is discovered during normal land records management activities.

- (2) The “PILT Reported By” field will reflect the following codes depending upon which agency has the PILT reporting responsibilities for specific parcels of Reclamation project land:
 - (a) **C** - Entitlement land that is reportable by U.S. Army Corps of Engineers.
 - (b) **F** - Entitlement land that is reportable by U.S. Forest Service.
 - (c) **L** - Entitlement land that is reportable by BLM.
 - (d) **P** - Entitlement land that is reportable by National Park Service.
 - (e) **R** – Entitlement land that is reportable by Reclamation.
 - (f) **W** - Entitlement land that is reportable by U.S. Fish and Wildlife Service.¹⁰
 - (g) **X** - Entitlement land that is reportable by any agency other than listed above, such as Department of Energy (Western Area Power Administration and Bonneville Power Administration).
- (3) For all project land where other agencies or bureaus have jurisdictional responsibilities or are involved, Reclamation will take reasonable steps to coordinate with the other agencies or bureaus to ensure that land is reported appropriately, and that entitlement land reportable by Reclamation is neither overlooked nor duplicative. Changes in the “PILT Reported By” code in the System will be supported by documentation, retained at the regional office, of the agreement or determination upon which the change is based.

D. Reclamation Land Managed by Non-Federal Entities. As the landholding agency with jurisdiction, Reclamation will retain the responsibility for reporting of PILT entitlement acres under the requirements of this D&S, and these lands will be recorded with a “PILT Reported By” code of “**R**.”

⁸Appropriations for annual PILT payments to states and counties are made by the Congress and are separate from and do not affect individual agencies’ budgets.

⁹If there is legislation, regulation, Executive Order, or Secretarial Order that requires another Federal agency to report the land included in the overlapped acres as their PILT entitlement land, then that other Federal agency is required to report both Reclamation’s PILT entitlement land and their land as that agency’s PILT entitlement acres.

¹⁰U.S. Fish and Wildlife Service reports its acreage under the Refuges Revenues Sharing Act (16 U.S.C. § 715a) and not under the PILT Act.

Reclamation Manual

Directives and Standards

5. Land Disposal.

- A. If land is disposed through sale, withdrawal revocation, property transfer voucher to another Federal agency, exchanges with any entity other than a state, or title transfer,¹¹ the land will no longer be reportable by Reclamation as PILT entitlement acres. Such land will carry a "Disposal Status" code of "02" and will be thereby automatically excluded from Reclamation's PILT report.¹² The "PILT Reported By" field should remain unchanged. Any Reclamation land disposed through withdrawal revocation and/or transfer to another Federal agency would remain eligible for PILT payments and be reported by the receiving agency.
- B. When Reclamation PILT entitlement land is deeded to a state in exchange for other state land and the deeded land continues to be eligible for PILT payments, the deeded Reclamation land will be disposed with the unique "Disposal Status" code of "04." The deeded land will continue, however, to be coded with an "R" in the "PILT Reported By" field along with the following requirements:
- (1) The "Notes" field in the System's Disposal screen will be annotated that this is an "Exchange action under 31 USC 69, Section 6902(b)(2)." In this situation, Reclamation is required by the PILT Act to continue to "carry" the exchanged land in its inventory as Federal PILT entitlement land until it is sold by the state to a private entity. In this event, PILT entitlement eligibility will cease and the "Disposal Status" code will be changed to "02."
 - (2) The conveyance deed to the state shall include a clause requiring the state to notify Reclamation when the exchanged PILT entitlement acres, or any part thereof, are sold into private ownership.¹³

6. PILT Annual Reporting Process.

- A. Near the end of each fiscal year, OPSS will create reports comparing the PILT entitlement acres reported to the Department in the prior fiscal year with those in the System for the fiscal year to be reported. The reports will reflect: (1) the total PILT entitlement acres by region, state, and county, and (2) comparison of the differences between the year being reported and prior year PILT entitlement acres by each county.

¹¹Reclamation will discontinue reporting transferred land for PILT, except if the title transfer legislation explicitly states that the land will continue to be reportable as PILT entitlement acres by Reclamation. In this instance, the land will remain coded with an "R" in the "PILT Reported By" field along with a disposal status code of "04."

¹²Disposal Status Code "02" means complete disposal of the parcel where the acreage is no longer reported for PILT; and Disposal Status Code "04" means complete disposal of the parcel where the acreage continues to be reported for PILT.

¹³This state notification requirement is promulgated in the Reclamation policy letter, dated March 25, 1995, from Division of Finance to the Program Analysis Office. (It is normally not appropriate in a D&S to state responsibility of entities outside of Reclamation; however, Paragraph 5(B)(2) is provided to alert Reclamation staff that the deed covenants must include a requirement for the state to notify Reclamation when the transferred or exchanged land leaves the state or county ownership and moves into private hands.)

Reclamation Manual

Directives and Standards

These reports will be forwarded to the regions for review, analysis, and comment. Marked-up reports with variance explanations will be formally returned to OPPS with sufficient time to meet the Department reporting deadline.

- B. The regional offices will review the comparison reports and provide brief explanations where there are significant decreases or increases. Explanations will be documented on the comparison reports that will be formally returned to OPPS within the time frame requested to meet the Department reporting deadline. The regional offices will notify OPPS of any changes to PILT entitlement codes that should be made in the System.
- C. Agency PILT reports are typically due to the Department in November and contain information on the prior fiscal year PILT entitlement acres. When forwarding Reclamation's annual PILT report to the Department, OPPS will describe, where appropriate, significant variations (primarily decreases) of PILT entitlement acres by county between the prior year and the reporting year. The Regional Realty Officers will receive copies of the annual PILT reports. OPPS will maintain the central file of these variance explanations for ready reference.