

# Reclamation Manual

## Directives and Standards

<b>Subject:</b>	Reuse of Bureau of Reclamation Project Water
<b>Purpose:</b>	To set forth requirements regarding reuse of Bureau of Reclamation project water. The benefit of this Directive and Standard (D&S) is a uniform approach to the reuse of project water in water-related contracting.
<b>Authority:</b>	The Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), and acts amendatory thereof and supplementary thereto, especially the Reclamation Project Act of 1939 (1939 Act) (Pub. L. 76-260; 43 USC 485, <i>et seq.</i> ), and the Sale of Water for Miscellaneous Purposes Act of 1920 (1920 Act) (41 Stat. 451; 43 USC 521).
<b>Approving Official:</b>	Director, Policy and Administration
<b>Contact:</b>	Policy and Administration, Reclamation Law Administration Division (84-55000)

1. **Introduction.** Reusing treated and untreated waste water, seepage, and return flows supports project<sup>1</sup> purposes and Reclamation's mission. Therefore, Reclamation will reuse project water to the extent allowed by state water laws and use permits. Reclamation will protect its interests in return flows under state law and, when applicable, as Federal property. Lastly, Reclamation, in coordination with the appropriate operating entities and to the extent practicable, will monitor water after initial delivery to identify opportunities for successive uses and pursue contracts for reuse of project water.
2. **Applicability.** This D&S applies to Reclamation employees responsible for executing and administering water-related contracts pursuant to the Reclamation Act of 1902 and acts amendatory thereof and supplementary thereto, especially the 1939 Act and the 1920 Act.
3. **Definition of Project Water.** Surface or ground waters, including project return flows, that are pumped, diverted, and/or stored pursuant to one or more of the following:
  - A. 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 project built pursuant to the Water Conservation Utilization Act of 1939 (WCUA) (53 Stat. 1418; 16 USC 590y, *et seq.*);
  - B. a withdrawal or reservation of water from appropriation by the United States for a Reclamation project or a WCUA project;

<sup>1</sup>Unless otherwise specified, any use of "project" in this document is a reference to Reclamation projects.

# Reclamation Manual

## Directives and Standards

---

- C. the Reclamation Reform Act of 1982 (Pub. L. 97-293, Title II; 96 Stat. 1263; 43 USC 390oo), specifically, the provisions concerning temporary supplies of water; and/or
  - D. an act of Congress that allocated or apportioned water to a Reclamation project or a WCUA project.
4. **Responsibilities.**
- A. **Director, Policy and Administration (Director).** The Director is responsible for ensuring that the Commissioner's Office's review of bases of negotiation (BONs), approval memoranda, and executed contracts address the requirements in this D&S. The Director is also responsible for issuing, updating, and providing guidance on the proper implementation of this D&S.
  - B. **Regional Directors.** Regional directors are responsible for implementing and ensuring compliance with this D&S in their regions.
5. **Using Contract Terms.** In the normal course of contracting actions, Reclamation staff will evaluate options for managing return flows of project water. This will include, but is not limited to the following:
- A. When appropriate, contracts will include language such as “the United States claims all of the waste, seepage, and return flow water derived from water delivered pursuant to this contract and the same is hereby reserved and retained by the United States for beneficial use on the project.”
  - B. When appropriate, Reclamation will assert administrative control over return flows through Standard Article 17. See Reclamation Manual D&S, *Reclamation Standard Water-Related Contract Articles, Article 17: Compliance with Federal Reclamation Laws* (PEC 10-17).
  - C. To the extent permitted, Reclamation will protect rights to return flows that are specifically designated for beneficial use by a project contractor or within a contractor's boundaries. If the project contractor holds the water rights in its own name, Reclamation will encourage the contractor to assert and protect any rights to reuse the water.
6. **Third Party Contracts.**
- A. Reclamation will not relinquish its rights to seepage or return flows. This applies even if responsibility for water deliveries has been transferred to a central authority, e.g., a master conservancy district or municipality.

# Reclamation Manual

## Directives and Standards

---

- B. Third party contracts must expressly align with the master contract. If the master contract gives Reclamation control over return flows from Reclamation projects, including reuse and redistribution, third party contracts must do the same.
- 7. **Use of Return Flows.** Return flows will be used for the benefit of the project. Reclamation retains the discretion to determine, within the bounds of the law and project purposes, what qualifies as a benefit of the project. If a project has only one principal project contractor, that entity does not automatically constitute the sole beneficiary of reused project water.
- 8. **Charges.** Reclamation staff will consider charges on a case-by-case basis and as permitted by the contracting and project authorities.

## RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: \_\_\_\_\_

Release No. \_\_\_\_\_

Ensure all employees needing this information are provided a copy of this release.

### Reclamation Manual Release Number and Subject

### Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

### Filing instructions

Remove Sheets

Insert Sheets

All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: \_\_\_\_\_

Date: \_\_\_\_\_